ADVICE
TO THE
COMMONS
Within all
His Majesties
REALMS And DOMINIONS.

Written by JACOB BURY, Esq;

Containing the perfect Harmony, Consent and Agreement between Divinity and Law, in Defence of the Government Established by Law in Church and State. And that Kingly Government is by Divine Right.

Nihil dictum, nec scriptum est, quod non dictum, & scriptum prius.

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ADVICE
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His Majesties
REALMS And DOMINIONS
Written by JACOB BOAY Esq.

To the Right Honourable Robert *Earl of* Ailesbury *and* Elgin, *Vicount Bruce of* Ampthill, *Baron Bruce of* Wharlton, Skelton, *and* Kinloſs, *Lord of the Honour of* Ampthill, *High Steward of* Leiceſter, *Lord Lieutenant and* Cuſtos Rotulorum *of the Counties of* Bedford, Huntington, *and* Cambridge, *and one of the Lords of His Majeſties moſt Honourable Privy Council,* &c.

Right Honourable,

HAving received ſome kindneſs from your Lordſhip, as alſo from the reſt of His Majeſties Commiſſioners of the Peace, for the County of *Bedford*; whereof, and wherein, your Honour is deſervedly (for your known and well approved Loyalty) *Summus procerum, & proximus à Rege,* the Chiefeſt of the

Governours, and the very next under, and after the King; therefore I thought my ſelf obliged to ſhew my thankfulneſs, by doing ſomething that might tend to the good of the whole Community. In order thereunto, I was principally moved to Write this ſmall enſuing Treatiſe, wherein is contained chiefly, The perfect Harmony, Conſent, and Agreement between Divinity and Law, in Defence of the Government by Law eſtabliſhed in Church and State; and is plainly demonſtrated, That Kingly Government is by Divine Right. And now, my Lord, I moſt humbly beg your Pardon, that I preſume to prefix your great Name before this Diſcourſe: But ſince there is nothing therein, but what hath its Weight and Warrant from the Holy Scriptures, or our Authentick, undeniable, and well approved of Books of Law; I cannot but hope your kind Approbation and Acceptance, and am very well pleaſed, I have the occaſion offered me, to let your Honour know how much I am

My Lord,

Your moſt Humble and
very Obedient Servant,

Jacob Bury.

THE

THE PREFACE TO THE READER.

Courteous Reader,

THis ſmall enſuing Treatiſe (*Entituled* Advice to the Commons within all His Majeſties Realms and Dominions) *are confeſſed to be but the Gleanings of an Old Indigent Officer of the Royal Army of King* Charles *the Firſt; gathered from the vintage, or the larger and more Fruitful Fields, of ſuch Authentick Books of Law,* &c. *as are cited by the Author for his Vouchers. It was Written in time a little before, and is Publiſhed in ſhort time after the Demiſe or Death of the Natural Body of our late moſt Gracious Soveraign Lord King* Charles *the Second, who to his Glory and Honour in all after Ages to come, will be Chronicled Miraculouſly to have excelled all his Royal Anceſtors in Mercy, and Amneſty to all his Subjects whatſoever that ſurvive him: by whoſe Prudent Governance, and Wiſe Management of all Publick Affairs, the Publick*

lick Peace of these Kingdoms, was to a Miracle preserved ever since his long expected, and (for good reasons) much wished for Restauration. Now (blessed be God for it) his rightful Successor (whom God long preserve) hath declared and promised, that as he is by Right of Bloud, and Act in Law, next and immediately to succeed his said dear Royal Brother in the Station God hath placed him (that is to say) in the Governance of these his Realms and Dominions, as our Soveraign Lord and King, so he shall always imitate his Predecessor in Clemency and Mercy to his Subjects; that however he hath before (by Wicked and foul Mouthed Detraction) been misreported to have been for Arbitrary Government; that he always shall, and will do his utmost endeavours, for the defence and preservation of the Government (as it is Established by Law) in Church and State; that he will invade no Mans property, &c. Now seeing that it hath pleased God to take to himself from us, our late Gracious Soveraign, let us all rest contented, and fully satisfied that we have wofully experienced the Mouths of Slanderors to have been always apt to call all things into question; but that always also they have been unready to approve of any thing tending to the publick Peace and welfare of the whole Community. Therefore believe the Word and gracious Promise of his Sacred Majesty; believe not every Idle report, neither be moved by vain suggestions, least through light trust, thou bring thy self into danger, and (which is more bad) be counted a fool. Let us all believe that (none sprung from the Loyns of King James *the First) will ever alter the Protestant Religion, or the Government Established by Law in Church and State. Remember there was this Plea allowed in bar of an Action brought in the late times of Rebellion, for that the Plantiff had not taken the ingagement to be true and faithful to the Commonwealth without King or House of Lords. Take into consideration also, what the Impression and Character of the Money Coined at* Oxford *was in those times; and also consider what was the Impression and Character of the Money then Coined by the late Usurpers; these matters (duly considered) will without further Arguments demonstrate, what*

the

the good Old Cause Men aimed at; certainly they aimed at nothing less than the alteration of the Government both in Church and State, and in order thereunto it may be said, that at the last, they Fought neither against great nor small, but only against King Charles *the First, the blessed Martyr of ever blessed Memory. Now, though it be in these his Majesties Realms and Dominions suffered to every one by Lawful ways and means to desire to aspire to a better private Fortune; yet withal it is an Office just in all inferior degrees, to bear without grudging the Ordinance, and Sentence of their Lot, otherwise there would be confusion of all Imperies and Governments, if it were suffered to every one to aspire to such liberty as he lusteth after, beyond the quality, State, and condition of a Subject, wherein God hath placed him. The late Plots proceeded (as it were) by the publick consent of the Dissenters to the present Government, and by incitation of certain Seditious Heads, who (by their rashness) are wont to draw the Commons into commotion, that by Poverty are assured they can lose nothing, and by their Nature are always desirous of Innovation, and being easily filled with vain errors, and false persuasions, are moved at the appetite of any that will provoke them and be their leaders; as the Waves of the Sea are carried and hurried hither and thither with the blasts of the Wind. Therefore every Law was made at the first, to no other end, but to bridle such as would live without Reason and Law, and to restrain and be a curb to such as will not Conform, and be Obedient to those Rules the Law prescribeth, requiring their Obedience to the Magistrates Superior, Middle, and Inferior, and as all are to know, the Superior is not, nor can be subject to the controul of the Inferior.* In pares est nullum imperium, multo minus in eos qui majus imperium habent, *therefore all Magistrates Subordinate, be they either of the Superior, Middle, or Inferior Rank, and* à fortiori, *all other Subjects whatsoever, are to be Obedient to their Soveraign Lord the King, as Supream,* qui majus imo maximum imperium habet, *that hath the greater, yea the greatest Command, Power and Supream Soveraignty over all his Subjects in these his Majesties Realms and Dominions.*

But

But as to this matter of the Kings Supremacy, in Church and State. Here I shall say no more, but shall leave all to be further informed as to their bounden Duties therein, in this ensuing Treatise; wherein is more fully and at large discoursed thereof. I remember in this ensuing Discourse also is said, (citing Sir Edward Coke *in* 7th. *Report* 7. b. *in* Calvins Case) *that every Subject is bound to go with the King in his Wars,* infra & extra Regnum, *but he is there pleased to add, that the Subject is not compellable to go out of the Kingdom without Wages: and citeth many Statutes as* 8th. Ed. *the* 3d. ca. 7th, *&c. in defence of his opinion. I do not presume to contradict him, but am satisfied that he sheweth good warrant for what he there Writeth. Moreover, no considerable Foreign War upon any occasion whatsoever is ever so rashly undertaken, but first the King useth to Summon his great Council the Parliament, and therein is the Honour, Interest, and safety of the King and Kingdom considered; and Parliamentary Supplies are granted, for the defraying, carrying on, and answering the necessary charges of the War: however Sir* Ed. Coke *denieth not, but* infra regnum, *within the Kingdom, all are compellable, and bound by duty of their Allegiance, with or without Wages to serve the Lord the King in his Wars; for then, if ever that saying is true,* ad regem potestas omnium pertinet, ad singulos proprietas, *the Power of all Men and all Things they have, enjoy or possess, belongeth to the King: and yet every Mans single property remains, and is continued: (but as may be seen in St.* Jermin *in his* Doct. *and* Stud. 64. b.) *The Law doth assign divers conditions upon the Property, and that, to alter the Property without consent of the Owner, if the conditions are not contrary to the Law of God or Reason. And nothing is more agreeing with the Law of God; nay, our Obedience to the King as Supream, is commanded in and by the Word of God; and nothing can be more agreeable to Reason, unless we will simply and contrary to all Reason, admit of the Children to give Laws to their Father, or Infants Males or Females to give Suck to their Mothers. And it is a thing obvious and well known to every Man (that knoweth any thing in our Law) that every Mans Property and Estates whatsoever by Act in Law are*

Forfeit

Forfeit to the King for Treaſon, or Fellony: for Treaſon (which all and every Rebellion is) to the King for ever, of what mean Lord ſoever they are holden: for Fellony, to the King for a Year, Day, and Waſt; and afterwards to the Lord of the Mannor of whom they are holden for ever. In my enſuing Diſcourſe (to ſhew what care was made for the preſervation of the Royal Rights, Priviledges, Juriſdictions, and Prerogatives, and Perſon of the King) I make mention of the Stat. made in the 12. Car. 2di. chap. 1. *though in the firſt clauſe thereof by me mentioned, is ſaid, That if any during the Life of the Kings Majeſty,* &c. *I let this ſtand unaltered, though the death of the Natural Body of the late King happened ſince, becauſe that clauſe thereof was made but in affirmance of the Common Law, and the Stat. of* 25. Ed. 3. ca. 2. *as to the ſecurity of the Kings Perſon and the Government: as appears in Mr.* Stanford's *Pleas of the Crown, the firſt chap. as to the Second and Third clauſes thereof, the offenders againſt the Second clauſe are not only made uncapable of any imployment in Church or State, but are alſo made lyable to ſuch puniſhments, as by the Laws and Statutes of this Realm, are to be inflicted in ſuch Caſes. As to the Third clauſe thereof every Perſon offending againſt the ſame ſhall incur the danger and penalty of Premunire mentioned in the Stat. of* 16. Rich. 2. ca. 5. *It appeareth by* Bracton, Libro 3tio. Tract. 2do. cap. 15°. Fol. 134°. *that* Canutus (*the* Daniſh *King*) *having ſettled himſelf in this Kingdom in Peace, kept notwitſtanding (for the better continuance thereof) great Armies within this Realm. The Peers and Nobles diſtaſting the Government by Arms and Armies* (odimus accipitrem, quia ſemper vivit in armis) *Wiſely and Politickly perſwaded the King that they would provide for the ſafety of him and his People, and yet his Armies (carrying with them many inconveniencies) ſhould be withdrawn: hereupon* Canutus *preſently withdrew his Armies, and within a while after loſt his Crown, and the ſame was reſtored to the right Owner. I mention this matter, and have it from Sir* Ed. Coke *who citeth* Bracton *for his voucher in his* 7. rep. 16. b. *and withall I deſire all to take notice,*

that the Exciſe by Act of Parliament, made in the firſt Parliament after his late Majeſties moſt happy Reſtauration, was continued to be paid to the late King during his Life. Hearth Money was ſettled upon the late King, his Heirs and Succeſſors, and was in recompence to the Crown for the diſſolution of the Court of Wards and Liveries. Cuſtoms upon Merchandizes imported and exported (this little Book will tell you) were all originally payable to the King, his Heirs and Succeſſors; and that Subſedies granted by Parliament, are but an improvement in the improvement of time, and trade, of the Ancient Cuſtoms payable to the Crown, and were granted to the late King for his Life; as they were from the time of King Henry *the* 7th. *granted to all his Royal Anceſtors, Kings and Queens of this Realm, except his Sacred Majeſties Royal Father King* Charles *the Firſt. Now mark what Sir* Edward Coke *more ſaith in his* 7th. rep. 10th b. Hæreditas Principis, eſt ſucceſſio in univerſum jus, quod defunctus Anteceſſor ſuus habuit, *The Inheritance of the Prince is his Succeſſion unto every Right that his deceaſed Anceſtor had. And ſuppoſe the Right Heir of the Crown had been attainted of Treaſon, yet ſhall the Crown deſcend to him, and* eo inſtante *(without any reverſal) the attainder is utterly avoided; as it fell out in the caſe of King* Henry *the* 7th. *as may be ſeen in* 1 H. 7th. Fol. 4°. *I have laid down before you theſe matters, to let you know, that thoſe Loyal Lords and Commons Aſſembled in Parliament in the* 12th. *year of his late Sacred Majeſty, well knew that he muſt needs want the neceſſary ſupplies to maintain, defend, and uphold the Government, as the late Uſurpers had to offend, alter, and deſtroy the ſame. The Kings Charges are great, as well for the ſecurity and ſafety of his own Royal Perſon, as for the preſervation of the publick Peace of his Realms and Dominions for the general good of the whole Community. A few Yeomen of the Guard (before the late times of Rebellion called Beef-eaters) were not enough for to, nor could reſcue his Sacred Majeſty King* Charles *the Firſt, from that impious Act, execrable Murther, and unparalel'd Treaſon againſt his Sacred Perſon, and Life, committed the* 30th. *of* January 1648. *neither was nor could ſuch a Guard have been ſufficient to ſecure the late Uſurpers (ſo ridiculous*

diculous was their Right to what they Uſurped) from that time, to the time of his late Majeſties Reſtauration. We ſee before, how in Ancient times, King Canutus *was ſerved, ſo ſoon as he was (I grant Politickly, but how Wiſely I know not) perſwaded to withdraw, and diſband his Guards: it may be his Arms or Armies might be attended with many inconveniencies; but the preſent Guards of our Soveraign Lord the King may be neceſſary to be continued, if ever in this our preſent Age, which hath been very changeable, and one Plot or other hath been too much threatning alteration of the Government in Church and State; and theſe Guards of his Sacred Majeſty are not attended with any inconveniencies, nor are chargeable to any but the King himſelf. Sir* Edw. Coke *ſaith, That the Kings Treaſure is the ſinews of War, and the Honour and ſafety of the King in times of Peace; that it is* firmamentum belli, & ornamentum pacis; *It is ſo, but I deny any War to be juſtifiable againſt the Lord our King within his Realms and Dominions: and therefore every Riſing, and Force raiſed within the Realm is properly called a Rebellion, improperly a War. Nor do the Kings Laws Protect any Subject to trade, get, and gain a great Eſtate, to the end to impower him to aſcend the Throne, and to ſtand in competition with, or to diſtaſt the Perſon or the Government of our rightful Soveraign Lord the King: but rather it is the bounden duty of all in general, to Love, Honour and obey their Lord the King, and proportionably according to their Eſtates, Qualities and Degrees to give Aides and Supplies to his neceſſities, for the juſt defence and ſecurity of his Royal Perſon, and the preſervation of the Peace, and quietneſs of him and all his People, in all his Realms and Dominions. We ſay* quo ditior eſt quiſque eo nobilior, *by ſo much as every Man is the more Rich, by ſo much he is the more Noble, by ſo much he is the better reſpected, and the more Eſteemed. But I ſay,* Principem habere ditiorem, confert ad dignitatem ſubditorum, ditiores habere ſubditos confert ad nobillitatem principis, *to have the Richer Prince conduceth to the dignity of the Subjects; and to have the Richer People conduceth to the dignity of the Prince. Now all here laſt mentioned is to this end and purpoſe, that all old Animoſities,*

Jealouſies and Fears laid aſide (*after his Gracious Majeſty ſhall have convened his Parliament*) *unto him be given* quod defunctus Anteceſſor ſuus habuit, *what his deceaſed Anceſtor had. Believe the word and promiſe of his Gracious Soveraign; he beginneth his Reign with Clemency and Mercy to all his Subjects, and will certainly be ſo far from invading your Properties, that having what was thought needful for his late Royal and Dear Brother: nay, I ſay, the Richer you make him, the more he will be reſpected at home, the more ſafe he and all his People will be; and the more he will certainly be feared and dreaded abroad. But leaſt with the Fooliſh Architect, I make the Porch too big for the Houſe, I ſay no more, only recommend to you the reading of this enſuing Treatiſe: which was written for the confirmation only of the more knowing and Loyal; and for the information of the more Ignorant, and therefore leſs Loyal Subjects. So I commit every Man to Gods protection, and reſt*

Every Mans well Wiſher,

J. B.

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ADVICE

ADVICE
TO THE
Commons of England, &c.

CHAP. I.

Sheweth how things ſtood at the latter end of King James *the Firſt, and ſomething is ſaid of the High Court of Parliament.*

AS *Noah* (rendred in the Word of God, *Gen.* 6. and 9. *ver.* to be a juſt and perfect Man, and one that walked with God, and that with his Family after the great deluge ſurvived the whole World) is fictitiouſly ſaid to have had two Faces, the one looking backward, the other forward, the one looking upon the World before the Flood, the other on the World after the Flood; ſo an old indigent Officer of the Kings Majeſties Army, *King* Charles *the Firſt of ever Bleſſed Memory*, may not improperly be ſaid to have two Faces, the one looking backward, the other forward, the one looking on this Kingdom of *England* before the late Civil War, the other on the ſame ſince the ſaid War. Taking leave to look backward and to examine how, and in what ſtate of Affairs things ſtood in the latter end of the Reign of King *James* the Firſt, and how the ſaid King *Charles* the Firſt found things upon the demiſe of the Kingdom to him, upon the death of the natural Body of His ſaid Royal Anceſtor, I collect out of what I have read long ſince, that about the Nineteenth year of the Reign of the ſaid King *James* the Firſt, in a Speech to his Houſe of Peers, he expreſſed himſelf, that he intended not to derogate from, or Infringe any of the Liberties or Priveledges of their Houſe, but rather to fortifie and ſtrengthen them; for never any King had done ſo

much for the Nobility of *England* as he had done, and ever would be ready to do, and whatever he ſhould ſay, or deliver to them, as his thought, yet when he had ſaid what he thought, he would afterwards freely leave the judgment thereof wholly to their Houſe; he knew they would do nothing, but what the like had been done before, and prayed them not to be jealous, that he would abridg them of any thing that had been uſed; for whatſoever Preſidents in good times of Government could warrant, he would allow, acknowledging them to be the Supreme Court of Juſtice, wherein he was ever preſent by Repreſentation.

But his ſaid Sacred Majeſty then inferred, that the Priviledges of the Commons, which they claimed to be their natural Birthrights, were but the favours of former Kings. Againſt which the Commons then proteſted, That the Liberties, *&c.* of Parliament, are the Ancient and undoubted Birthright and Inheritance of the Subjects of *England*; that the urgent Affairs concerning the Kings State, and defence of the Realm, and the Church of *England*, and the Maintenance and making of Laws, and redreſs of Miſchiefs within the Realm, are proper matter for Debate in Parliament, and that this Debate ought to be free, *&c.* And no Member to be Impriſoned (other than by cenſure of the Houſe it ſelf) for debating Parliament buſineſs; and if any Member is complained of for any thing done or ſaid in Parliament, the ſame is to be ſhewed the King by aſſent of the Commons, before the King is to give credence to any private Information. In Counſel afterwards this King expreſſed, that he never meant to deny the Houſe of Commons any Lawful Priviledge they had enjoyed by any Law or Statute, by Cuſtom, or uncontrolled and lawful Preſident. In the Proteſtation ſome words (viz. *arduis Regni*) are cunningly mentioned, but the word (*quibuſdam*) which reſtraineth the generality to ſuch particular Caſes, as his Majeſty pleaſeth to conſult with them upon, was purpoſely omitted. Now as to what he is pleaſed to conſult with them upon, it is Cuſtomary for the King, at the firſt opening of every Parliament, in a ſhort Speech, to declare to the Three Eſtates, the certain Occaſions urged him to convene them: on which or the particular Heads thereof, the Lord Chancellor, or Lord Keeper of the Great Seal of *England*, for the time being, more Copiouſly enlargeth; obſerving thoſe meaſures the King his Maſter preſcribeth him, thô in fewer words, for non-obſervance whereof, and for their omiſſion of the word (*quibuſdam*) in their ſaid proteſtation, the ſaid Learned King *James* the Firſt, did actually take the ſaid proteſtation out of the Journal Book *propriâ ſuâ manu*; and on the ſixth of *January* Diſſolved the Parliament; and ſome eminent Members of the Parliament were committed to the Tower; and others to other Priſons; and ſome ſent into *Ireland*, rather for Puniſhment than to Enquire (as was pretended) of ſundry Matters

Matters concerning his Majeſties Service. There then appeared ſome Men of Antimonarchial Spirits, and that inſiſted too highly upon Priviledges, little regarding or rightly conſidering the meaſures chalked out to them by the Kings Writ, by which they are ſummoned and impowered to ſit in Parliament. The Members before ſpoken of remembred not what the ſaid King *James* the Firſt in time before ſaid, the Parliament is a thing compoſed of a Head and a Body, the Monarchy and the Three Eſtates, it was firſt a Monarchy, then after a Parliament, that there were no Parliaments but in Monarchical Governments, for in *Venice*, the *Netherlands*, and other free Governments there are none; the Head is to call the Body together; and for the Clergy, the Biſhops are the Chief; for Shires their Knights; for Towns and Cities their Burgeſſes and Citizens; theſe are to treat of the certain difficult Matters, and to Counſel their King with their beſt advice to make Laws for the Commonweale; and the Lower Houſe is alſo to Petition their King, and acquaint him with their Grievances, and not to meddle with their Kings Prerogative, they are to offer ſupply for his neceſſity, and he is to diſtribute in recompence thereof Juſtice and Mercy. If this Head and Body, Monarch and Three Eſtates, be at unity within themſelves, they then make *le treſhault Court de Parliament*, the Supreme, and in the ſuperlative Degree, the higheſt Court of Parliament. Their Priviledges are ſo great, that (whilſt that Court is at unity within it ſelf) I know not what it may not do; and (as directed by Mr. *Plowden*) I ſhall not think, much leſs ſpeak any thing diſhonourable of that Court, but as in Arithmetick Three Cyphers with a Figure of One prefixed, makes the compleat Number of one Thouſand; ſo take away the Number (or rather the beginning of Number) of One, and the Three Cyphers that remain ſignifie nothing. For when the Parliament is ſtiled the Supreme Court, it muſt be underſtood properly of the King ſitting in the Houſe of Peers in Perſon, and improperly of the Lords or Commons without him; the Conſultive, Directive, or Deliberative Power is in the Houſe of Peers, the Performing and Conſenting Power is in the Houſe of Commons, but the Legiſlative Power lodgeth in the Perſon of the King, yet altogether (that is to ſay) King, Lords, and Commons make Parliamentary binding Laws and Statutes, 7. *H.* 7. 14. it is ſaid that there are many Statutes indicted, *quod dominus Rex Statuit*, that our Lord the King hath ordained, yet if they are in the Parliament Roul, and have always been allowed as Statutes, it ſhall be intended that they were made by Authority of Parliament. But if a Statute be made thus, the King with the Aſſent of the Lords, or the King with the Aſſent of the Commons, It hath been held from about the time of *H.* 3. to the time of the late Rebellion, not to be good, for all ought to Aſſent, *Coke* 8. 20, 21. ſo that as Sir *John Forteſcue* ſaith, Fol. 40. a. b. Statutes are made in *England*, not only by

the Princes pleasure (tho he saith not that in *England* they can be made without the Princes pleasure or Royal Assent) but by and with the Assent of the whole Realm in Parliament assembled by their Representatives: so that of necessity they must procure the Wealth of the People, and in no wise tend to their hindrance, which well they cannot do, seeing they are ordained not by the device of one Man alone, or of a Hundred wise Councelors only, but of more than three Hundred chosen Men, much agreeing with the number of the Ancient Senators of *Rome*: and if it chance, these Statutes (being devised with such great Solemnity and Wit) not to fall out so effectually, as the intent of the makers did wish, they may quickly be Reformed in a Subsequent Parliament; but not without the Assent of all the Powers, by whose Authority they were first passed and devised.

CHAP. II.

Sheweth, how King Charles *the First found things at his first coming to these Crowns, and there is also said something as to the learning of the Customs, the chief Maintenance of the Crown in his time.*

I Further observe, that at the first coming to the Crown of the said King *Charles* the First, his first Parliament in the first Year of his Reign, or the Major part of them, met not without being armed with some prejudice to his said Sacred Majesty King *Charles* the First, for therein the Act for Tonnage and Poundage passed not which in the first Parliaments from the time of *H.* 7. to this time, (as it were accustomably and of course) had been granted and passed to all his Royal Ancestors, Kings, and Queens of this Realm. The sudden Dissolution of that Parliament, preventing the Act of Subsedies he was forced to draw from his People, by borrowing of Persons able to lend, such competent Sums of Money, as might discharge his present Occasions; and to that purpose, directed Letters to the Lord Lieutenant of Counties, to return the Names of Persons able to lend, omitting the Names of Noble Men and Clergy-men, and (the Names returned) the Comptroler of the Kings Household by the Councils order, issued forth Letters in the Kings Name, under the Privy Seal, to the several Persons returned for Loane of Money. Though this was not the first time that ever such Loanes under the Privy Seal were had upon certain emergent Occasions, and in cases of urgent necessity

ceſſity by failer of Parliamentary Supplies. Yet in the Parliament next after, *in tertio Caroli primi*, many of the Members took the occaſion to ſtrive as to their inſiſting upon their Priviledges to outdo one another. Then the modeſty of the Houſe of Commons (which was very great in former times) was by them forgotten, and they began to arrogate more Power than what the Kings Writ gave them; heretofore they evaded matters of State as much as they could, and when their Advice hath been deſired, they have humbly deſired not to be put to conſult of things of which they had no knowledge; and at other times they have humbly deſired, that the King would be adviſed in matters of War or Peace, by the Lords, being of more Experience than themſelves in ſuch Affairs; and have uſed modeſtly to excuſe themſelves, as too weak to conſult in ſo weighty Matters. But then ſeveral Speeches and Reſolves made by divers Champions of the Houſe of Commons (who were no friends to Prerogative) put the Lords and Commons then Aſſembled in Parliament, upon their Petition concerning divers Rights and Liberties of the Subjects; to which the late Kings anſwer was, That he willed that right be done according to the Laws and Cuſtoms of the Realm, and that the Statutes be put in due Execution, that his Subjects may have no cauſe to complain of any Wrong or Oppreſſions contrary to their juſt Rights and Liberties, to the Preſervation whereof, he held himſelf in Conſcience as well obliged as of his Prerogative. But this anſwer not giving ſatisfaction, he was again Petitioned unto, that he would give a full and ſatisfactory anſwer to their Petion in full Parliament, whereupon the late King in Perſon, after their Petition was read by the Clerk of the Crown, the Kings anſwer thereunto was read by the Clerk of the Parliament in theſe words, *Soit droit fait come eſt deſire*, Let right be done as is deſired. And on the laſt day of the Seſſion of that Parliament, he declared his diſlike of a Remonſtrance given him by the Houſe of Commons, and ſince he was certainly informed of a ſecond Remonſtrance was preparing to take away his profit of Tonnage and Poundage, alledging that he had given away his right thereunto by his Anſwer to their Petition: that therefore he was forced to put an end to that Seſſion before he meant it, being unwilling to receive any more Remonſtrances to which he muſt give a harſh anſwer. And as for Tonnage and Poundage, it was a thing he could not want, and never meant by him to be granted. As ſingle Perſons uſually quarrel before they fight, ſo now began there to be a kind of Logomachy, a contention in Words, Speeches, Remonſtrances, and Declarations began to be cryed up and down the Streets, all which in time after uſhered in the late War. It will be material for a plainer diſcovery of the injury intended to his ſaid moſt excellent Majeſty in the ſaid ſecond Remonſtrance, to take away his Profit of Tonnage and Poundage, to ſpeak

ſomething

ſomething, for the explanation of this learning of the Cuſtoms, from out Books of Law; from which it is obſervable, That the Duties payable to the King out of Merchandizes exported or imported, are of three kinds: 1. Cuſtoms, 2. Subſidies, 3. Impoſts or Impoſitions, all which admit of theſe Definitions and Diviſions.

1. Cuſtoms are Duties certain and perpetual, payable to the King as the Inheritance of his Crown, for Merchandizes imported and exported to, and from parts over and beyond the Seas, from one Realm to another Realm. Theſe Duties called Cuſtoms are divided into three kinds: 1. *Magna & antiqua Cuſtuma*, 2. *Parva & nova Cuſtuma*, 3. *Priſage and Butlerage*, and in all theſe the Crown hath a certain and perpetual Inheritance. 1. The great and ancient Cuſtome, is payable out of native or homebred Commodities of three ſorts, to wit, Wool, Woollfells, and Hides, and is in certainty, 6*s.* 8*d.* for a Sack of Wool, for 300. of Woolfells 6*s.* 8*d.* for a Laſt of Hides, 13*s.* 4*d.* 1*f.* And every Sack of Wool containeth 26 Stone, and every Stone 14 Pounds. And the Laſt of Hides is 20 Dickar, and every Dickar is 10 Hides; this is the Ancient Cuſtom payable by every Merchant Denizon for the exportation of the Commodities aforeſaid, but the Merchant Strangers payed a third part more, for remiſſion of Prizes, and other Priviledges to them granted by the Charter of 31. *Ed.* 1. *Dyer.* 1 *Eliz.* 165. *b.* 1.

2. The new and petrit Cuſtom is 3*d.* of the Pound payable by Merchant Strangers only, for all Commodities by them imported, and exported, as is expreſſed in the ſaid Charter of 31. *Ed.* 1.

3. Priſage is a Cuſtom taken of Wines of all ſorts, and is in certainty, 2 Tuns of Wine out of every Ship laden with 20 Tun or more; the one Tun to be taken before the Maſt of the Ship, and the other behind the Maſt, and becauſe that this Cuſtom is part of the Merchandizes imported and taken *in ſpecie*, it is called Prizeage; and this Cuſtom of Prizeage, was payable in *England* by all Merchants Denizons and Aliens, before the ſaid Charter of 31 *Ed.* 1. for which the King remitted to all Merchant ſtrangers all Prizes. And in the ſame Charter it is expreſſed, that in conſideration thereof, the Merchants ſtrangers had granted to pay to the King and his Heirs by name of Cuſtom 2*s.* of every Tun of Wine that they ſhall bring, or cauſe to be brought into the Kingdom, *&c.* which Cuſtom of 2*s.* of the Tun is now in *England* called Buttlerage, and payable there by all Merchant ſtrangers. See the *Stat. de Extra & ad Scaccar.* 15th. *Ed.* 2. And this is the nature of theſe ſeveral Duties for the Original of theſe Cuſtoms.

1. The

1. The ſaid Ancient and grand Cuſtom is parcel of the Ancient Inheritance of the Crown, and as Ancient as the Crown it ſelf, *Inhæret ſceptro*; and is due of common Right and by Preſcription, and not by grant or benevolence of Merchants, or by Act of Parliament *Dyer* 1. *Eliz.* 165. *b.* But becauſe that every thing that is due of common Right, and by Preſcription, ought to have a reaſonable cauſe of beginning, it is to be Noted and Obſerved, that this Cuſtom was payed to the Crown for four principle Cauſes and Reaſons.

1. For the better knowledg of ſuch as depart the Realm, and of what Commodities are carried out of the Realm. See *Dyer* 165. *b.* and the Statute of 18. *Ed.* 3. *ca.* 3.

2. For the Intereſt that the King hath in the Sea, and in the Braches and Arms of it, 22. *Aſſ. Pl.* 93. 15. *Eliz. Dyer* 326. *b.* the Sea is of the Ligeance of the King, as of his Crown, and is his proper Inheritance, *Davyes rep.* 56. *a.*

3. Becauſe the King is Guardian of all the Ports and Havens of the Realm, which are *Oſtia* or *januæ Regni*, and the King is *Cuſtos totius Regni.*

4. For Waftage and Protection of Merchants upon the Sea againſt the Enemies of the Realm, and againſt Pirates who are the common Enemies of all Nations.

2. The Pettit and new Cuſtom payable by Merchant ſtrangers only, had its beginning in the time of *Ed.* 1. for before this time the duties payable by Merchant ſtrangers for all Commodities imported, (except Wines,) and for all native Commodities exported (except the ſaid ſtaple wares of Wool, Woolfells, and Hides) were uncertain. "For the King by his Prerogative "took to his uſe, and at his own price, ſo many, and ſuch portions of their "Merchandizes, as he had need of by name of Prizes, which were always "uncertain. But King *Ed.* 1. by his ſaid Charter dated the 1 of *Febr.* in the 31 year of his Reign, in favour of Merchant ſtrangers, and to invite and occaſion their Commerce and Trade, remitted to them all Prizes, and granted to them divers other Priviledges. In conſideration whereof, all and ſingular the ſaid Merchant ſtrangers for themſelves, and others of the ſame parts with them, and every of them beyond the Seas, unanimouſly agreed to pay to the King and his Heirs 3 *d.* of the Pound for all Merchandizes imported or exported by them, as is expreſſed more particularly in the ſaid Charter, which is to be found in the Office of the Chief Remembrancer in the Exchequer. And this Charter of *Ed.* 1. in all Points was ratified and confirmed by Act of Parliament, 27 *Ed.* 3. *ca.* 26. and this is the Original of Pettit Cuſtom, ſo called becauſe this Pettit Cuſtom for Forreign Commodities, was accepted by the King, when but a ſmall quantity of ſuch Forreign Wares

Wares was imported into *England*, for in the time of *Ed.* 1. and after that in the time of *Ed.* 3. the native Commodities of *England* exported, were of greater quantity and value by two parts of three at the leaſt, than the Forreign Merchandizes imported; but now it is quite contrary: for at this day the Outgate is leſs than the Ingate, the Foreign Mercery and Grocery Wares, *&c.* imported, are of far greater quantity and value than our Native Commodities exported.

3. Priſage of Wines, is alſo a Cuſtom due by Preſcription, and parcel of the Ancient Inheritance of the Crown, and that the King hath Inheritance in the Priſage of Wines, appeareth by the Charters granted to the Citizens of *London*, and to thoſe of the cinque Ports to be diſcharged of Priſage in all Ports for ever. See the Stat. of 1 *H.* 8. *ca.* 5. And the Duke of *Ormond* hath an Eſtate of Inheritance in the Priſage of Wines in the Kingdom of *Ireland* by grant of the King; and this is the Nature, Original and Difference, of the Ancient duties payable for Merchandizes, which are properly called Cuſtoms, and are the Inheritance of the Crown.

2. Subſedies alſo are duties payable for Merchandizes exported and imported, but are granted by Act of Parliament, *Dyer.* 31 *H.* 8. 43. *b.* 1. *Mar. Dyer* 92. *a.* and are of three divers ſorts, according to the diverſity of the Commodities, and are called.

1*ſt.* Aides or Subſedies, being granted out of the ſaid Native Commodities, (to wit) Wool, Woolfells, and Hides; over and above the Ancient Cuſtom aforeſaid.

2*dly*, Tonnage granted out of Wines of all ſorts, over and above the Priſage, and the ſaid Cuſtom of 2 *s.* on the Tun granted by the Charter of 31 *Ed.* 1. now called Butlerage.

3*dly*, Poundage granted out of all Commodities imported and exported (except Wines, and the ſtaple Commodities aforeſaid) and payable by the Merchant ſtrangers, over and above the ſaid Pettit Cuſtom.

1. Theſe Aides or Subſedies, were not of a certain quantity or continuance, till to the time of *Ed.* 6. to which King in the firſt Parliament of his Reign was granted a Subſedy of 33 *s.* 4 *d.* of every Sack of Wool, 33 *s.* 4 *d.* for every 240. Woolfells, and 3 *l.* 6 *s.* 8 *d.* for every Laſt of Hides exported by Denizens for every Sack of Wooll exported by Aliens, 3 *l.* 6 *s.* 8 *d.* and for every 240. Woolfells, 3 *l.* 6 *s.* 8 *d.* and for every Laſt of Hides, 3 *l.* 13 *s.* 4 *d.* And this Subſedy was granted to continue during the Life Natural of that King. And after his demiſe or death, all Kings and Queens (except King *Charles* the Firſt) have had the like grants for Life.

2. Tonnage,

2. Tonnage which is a Subſedy out of Wines of all ſorts, was firſt granted by Parliament, *5th. R.* 2. where 2*s.* of every Tun of Wine, to be imported into *England*, was granted to the King for Two years, and that was for Maintenance of a Fleet upon the Sea to ſuppreſs the Pyrates. But after by Parliament 3. *Ed.* 4. Tonnage was granted to this King for Term of his Natural Life in this manner, (*viz.*) 3*s.* for every Tun of Wines, and (beſides thoſe 3*s.*) for every Tun of Sweet Wines 3*s.* more: ſee the Statute of 12*th. Ed.* 4. *ca.* 3. And this Subſedy was after granted to *H.* 8. and *Ed. 6th.* with this Addition in time of *Ed. 6th.* that of every Awm of Rheniſh Wine alſo 1*s.* ſhall be paid, and after the time of *Ed. 6th.* this Subſedy of Tonnage was as of courſe Granted in *England*, by ſeveral Acts of Parliament to Queen *Mary*, Queen *Elizabeth*, and King *James*, during their ſeveral Natural Lives.

3. Poundage, which is a Subſedy granted out of all Commodities exported and imported, except Wines, and the Ancient ſtaple Wares, as above, and payable by all Merchants Denizons and Aliens is the 20*th.* part of the value of Merchandizes, to wit, 12*d.* of the Pound, and was firſt Granted by Parliament in *England*, 31. *H.* 6. during the Life of this King, which Grant was immediately reſumed. But after that 3. *Ed.* 4. this Subſedy of Poundage was granted to the ſaid King: See the Stat. 12. *Ed.* 4. *ca.* 3. and after the ſame Subſedy was Granted to *H.* 8. during his Life; and the ſame Grant was renewed to *Ed.* 6. Queen *Mary*, Queen *Elizabeth*, and King *James*, during their ſeveral Lives, by ſeveral Acts of Parliament.

3*ly*, Impoſts or Impoſitions, are the Third kind of Duties payable for Merchandizes, and are ſometimes Rated and aſſeſſed by Parliament, and then are in nature of Subſedies, and are ſometimes impoſed by Prerogative Royal to ſupport the neceſſary Charges of the Crown; and then *Nihil magis juſtum eſt, quam quod neceſſarium eſt*: nothing is more juſt, than what is neceſſary as an Ancient Senator of *Rome* was wont to ſay.

The Impoſt upon Wines in *Ireland* was firſt aſſeſſed by Parliaments, and limitted to be paid for a certain time of Years, which being expired, that is now continued there by Prerogative of the King, *Davyes rep.* 12. *a.*

It is to be obſerved from what hath been ſaid, that Anciently the Outgate was more than the Ingate; and that ſince or of latter times, it is otherwiſe: that the Merchandizes imported, do far ſurmount the value and quantity of our Native Commodities exported; which cauſed the aforeſaid Pettit and new Cuſtom, to exceed the ſaid grand and Ancient Cuſtom; for by continuance of time, all the Kings Dominions were much better Peopled, and are more Populous at home, and in all his Foreign Plantations of latter time acquired, and by reaſon thereof our Lands and the Annual Rents

thereof, within the Kings ſaid Dominions are much improved; and likewiſe trade by Sea is alſo much improved; as is eaſily made manifeſt by the great diſproportion of the Rent reſerved to be paid for the Cuſtoms by the Farmours thereof when laſt let to Farms, and the Rent paid for the ſame (to go no higher) in the times of King *James* and Queen *Elizabeth*; and that wiſe King *Ed.* 1. by his ſaid Charter remitted Prizes, and by Priviledges Granted to Aliens, encouraged them to the more free Trade and Commerce; and by conſequence there was in after Ages the greater reaſon for an improvement of the Cuſtoms, by the beſt, uſual, and accuſtomed way of Granting Subſedies for the Lives of our Kings Succeſſively one after another by Act of Parliament. Seeing Subſedies themſelves are no more than an Improvement (in the Improvement of time) of the Ancient Cuſtoms of common Right, and by Preſcription, belonging to the King his Heirs and Succeſſors; and that we may Collect from what is aforeſaid, that (if not ſo granted) they may and have been impoſed by Prerogative Royal, for the Four principal Cauſes and Reaſons aforeſaid, and to ſupport the neceſſary Charges of the Crown. The Words of the King when he Paſſeth the Bill of Subſedies are obſervable, which are theſe, *Le Roy remercye ſes Loyal Subjects, accept lour benevolence, & auſſi ainſy le veult*, The King thanks his Loyal Subjects, accepts of their good will, and alſo will have it; which laſt Words, make the Act of Subſedy a Law, and ſo binds every Man to the payment of it, inſomuch, that the Two Houſes of Parliament, joint or ſeparate, cannot impoſe a Penny upon the Subject without the King, nor can the Freeholders (whom they ſerve) inveſt any ſuch power in them: But for the Soveraign Prince himſelf, there are many Examples Old and New, how he hath not only raiſed *pecuniary ſumms in ſpecie*, but layed Impoſitions upon Commodities by meer Royal Authority; I ſhall inſtance only in Two, *viz.* in Queen *Mary*, and Queen *Elizabeth*, the firſt laid an Impoſition upon Cloth and *Gaſcon* Wines, the other upon ſweet Wines and Alloms, without Parliament. Therefore thoſe Parliaments of the Firſt and Third years of King *Charles* the Firſt, and the Members of the ſame, that ſo highly inſiſted upon their Priviledges, their *meum* and *tuum*, Liberties, *&c.* (and that would have been unwilling to have abated one of their Tennants of any their Manours or Farms a ſmall matter of their Rents, though it may be credited for truth, that Twenty Acres of their Lands then let at 20 *l. per ann.* might in the time of *Ed.* 1. be let for 20 *s. per ann.* were very injurious to the ſaid King, in that they (contrary to their bounden Duty) neglected to Grant to him, the uſually Granted and Paſſed Act for Tonnage and Poundage; being the chief Maintenance of the Crown in his time. The firſt Parliaments of King *Charles* the Firſt being Diſſolved, in a ſhort time after, by Order of the

the ſaid King and Council, the then Farmors of the Cuſtoms were Commanded to receive the Cuſtoms, and all Duties payable for the ſame, as in the time of his Royal Anceſtor King *James* the Firſt, and the firſt Seventeen years of the ſaid King *Charles* the Firſt, were times of great Plenty, then Trade was great, and good; and the Farmors of the Cuſtoms did very much augment their Eſtates, inſomuch that none of them did refuſe to Obey the ſaid Order. But in time next ſubſequent, they were all great Sufferers, for the fatal Parliament called in *Noverber* 1640. wanted Money for the work they had cut out, and after they had Sat a few Months, they queſtioned the Farmers for Intermeddling, Farming, and Receiving the Cuſtoms and Impoſts, contrary (as they ſaid) to Law, contrary to a Declaration and Vote, 3°. *Car.* and contrary to the Liberty of the Subject; they being Threatned and Timorous, thô there was no Law to prohibit the Receipt, for Farming of the Cuſtoms, nor any Vote Paſſed 3°. *Car. primi* againſt it, ſuddenly ſubmitted to a Compoſition of 165000 *l.* and whilſt, or a ſmall time before theſe things were agitating, the Farmers contracted for a new Farm of the Cuſtoms with his late Majeſty for Four years, from *Chriſtmaſs* 1640. and *Lady day* 1641. upon the which Farm and the Aſſignments of the Rents for the ſame the Sum of 200000 *l.* was Advanced for his ſaid Majeſty King *Charles* the Firſt, (by which the ſaid King had made ſome proviſions for War, which the ſaid pretended Parliament recovered, and made great uſe of againſt himſelf) and the next day the ſaid Compoſition was reported, the Contract for the new Farm was Voted Void, the Aſſignments upon the Rents were made Null, inſtead of Farmers many of them were made Commiſſioners; and the ſaid Parliament (reſolving not to ſpare this Revenue) Commanded them (*non obſtante* the Law lately paſſed by themſelves to run into the ſame Crime for which they had lately Puniſhed them) to receive the Cuſtoms which with the ſaid Compoſition paid by them in the ſpace of Two Months, was made uſe of to raiſe and pay the pretended Parliaments Army: which ſaid great Sums of 165000 *l.* and 200000 *l.* (which the ſaid Farmers may be ſaid to have been Fined, and to have advanced for his ſaid Majeſty King *Charles* the Firſt) reduced all of them to low Eſtates; and ſome of them were Priſoners for near Twenty years before his late Majeſties moſt happy Reſtauration; who afterwards in the 16*th.* year of his Reign, was graciouſly pleaſed to take into Conſideration the great ſufferings of the ſaid old unhappy Farmers of his late Majeſties Cuſtoms, and out of his ſpecial Grace and Favour, by his Letters, Pattents under the Great Seal of *England*, and by Privy Seal, and Tallyes thereupon Struck, Leavyed, and Allowed of, Granted unto Sir *John Jacob* and other the ſaid Farmers 200000 *l.* for the diſcharging and ſatisfying of the reſt and reſidue of the great Debts by them

Contracted for his ſaid Majeſty King *Charles* the Firſt, and for their reimburſement and ſatisfaction of ſuch Sums of Money as they had lent to, or paid for the ſaid King *Charles* the Firſt, to be Received and Deducted by them out of their Rents payable to his late Majeſty out of the Farm of the Cuſtoms, then, or lately before, made to Sir *John Wolſtenholme*, Sir *John Jacob*, Sir *Nicholas Criſp*, and Sir *John Shaw* in Five years, being the Term of their then ſaid Farm, which they, or ſome others of them, or on their behalfs accordingly Received, and Diſpoſed of in payment and ſatisſatisfaction of the ſaid Debts, (which if his late Majeſty had not been pleaſed to do) the ſaid Farmers, and many of their Creditors alſo, had been utterly Ruined and undone.

CHAP. III.

Sheweth how the late Rebellion broke out, and ſomething is ſaid of the great Advantages the Rebels had, with what Advantages only the Loyal Party had.

NOW in time King *Charles* the Firſt had lately left *White-hall*, becauſe of the rude Inſolency of Tumults, backed and abetted by thoſe intended nothing leſs than confuſion upon Church and State: nothing in the World had more of horrour than theſe Tumults, Enormous and Deteſtable were their outrages, and no means could take place for their Suppreſſion; ſo that (to Redeem his Royal Perſon and Conſcience from violence) the ſaid King withdrew himſelf, hoping thereby to give time both for the Ebbing of their Tumultuous fury, and others their Abettors regaining ſome degrees of modeſty and more ſober ſenſe. But it is a thing Common to Men High and Low, Noble and Ignoble, of all Qualities and Conditions whatſoever, that when their Adverſities approach, they loſe chiefly that Reaſon and Wiſdom, with the which they might have hindred or avoided the ills that happen: and it is common to Men and Kingdoms that draw towards their deſtinies, that when their ill Fortunes comes, it blinds their Eyes that they cannot diſcern it, and binds their Hands that they cannot help it, making them Inſtruments againſt themſelves in the Execution of their miſhaps. His ſaid Majeſty King *Charles* the Firſt was brought into great Streights, he meaned well, was much pleaſed in his Parliament, and thinking to have preſerved the Love of his Subjects thereby, he was not ſo Tenatious as he ought to have been;

been; but cared not to leſſen himſelf in the greateſt points of his wonted Prerogative; thinking he might have been no looſer, but that he might have gained a Recompence in his Subjects Affections; he never bare any touch of Conſcience with greater regret, than that Matter related to the Death of that Noble, Learned, and Loyal Earl of *Strafford*, he paſſed the Bill for the Triennial Parliaments, and withal ſettled that Parliament during the pleaſure of the Two Houſes, then Mr. *Lowry*, one of the Burgeſſes for the Town of *Cambridge*, writ word to his Wife for Newſe, that the King had Paſſed an Act for a Triennial Parliament every year; the *Fiſhmonger* ſpake truer than he was aware of, for ſuch conſtruction was made thereof by thoſe who intended Ingratefully and Wickedly to take Advantage of his large Conceſſions, that the one with the other amounted to as much as to the Perpetuating that Parliament. Whereas he hoped by this Act of high Confidence to have ſhut out, and locked the Door upon all preſent Jealouſies and future Miſtakes; they intended no leſs, than to ſhut their King out of Doors, and by Colour thereof to Rob and Denude him of all his Royal Power both in Church and State. Then the Preſs and the Pulpit joyned to make the King Odious, and all Artifices were uſed to raiſe Money for the Raiſing and Maintenance of their Armies. After a Royal Subſedy of 400000 *l.* they next had Poll Money, then after they hedged in an incredible Sum by way of free Loanes and Contributions upon the Publick Faith, then the *Iriſh* Adventures for the Sale of Lands, and the general Collection for the relief of the Diſtreſſed Proteſtants in *Iroland*, brought in vaſt Sums of Money, whereof the Tweentieth part was not imployed to the right uſe; then they had an Impoſition upon a Weekly Meal, and a Loane from the City after the rate of five Subſedies, beſides the Five and twentieth part; then there was an Aſſeſſment for bringing in the *Scots*, beſides ſeveral Weekly Aſſeſſments for their ſeveral Armies; then they had the benefit of Kings, Queens, and Princes Revenues; Sequeſtrations, and Plunder by Committees, and Compoſitions with Delinquents (as they were pleaſed to call them) did ariſe to ſuch Sums as paſſed all underſtanding; beſides the Exciſe, Fortification Money, and vaſt Sums made by Sale of Biſhops, Deans, and Chapters Lands: to be ſhort, they Aſſumed to themſelves all the Regalias of the Crown, they Seized upon Sword, Great Seal, and Soveraignty, upon the Cuſtoms, the Militia, and all the marks of Majeſty, nay they did Arrogate to themſelves the Legiſlative and Supreme Power, and they wanted not Commiſſioners of the Great Seal, Judges, Juſtices, Publicans, and all Officers for all Offices whatſoever. That for the greateſt part of them, forſook their good Old Maſter, (as *Demas* is ſaid to have forſaken St. *Paul*) to embrace this preſent World. They wanted not other mighty Advantages, for they had all the Tenable places, and Towns of Strength,

Strength, both by Sea and Land, they had all the Navy Royal, they had the Tower of *London*, with all the Ammunition and Arms of the Crown, and one Advantage they had, exceeded all the reſt, they had the City of *London*, which may be called the great Magazine of Men and Money, where there is a ready ſupply of all things, that may Cloath, and make Men Gay, and Gallant, to put them in Heart and Reſolution. We with the ſaid King, had only this Advantage, that we had the Word of God, and the Laws of the Land for our Juſtification, together with the great Tye and Bond of our Allegiance; all which required our Obedience to the ſaid Kings juſt Commands; but to none other without him, or againſt him, in the Point of raiſing Arms, *Virgilii Æneid. jamque faces & ſaxa volant, furor Arma miniſtrat.*

CHAP. IV.

Sheweth, how the King, the Loyal Party, and the Law ſuffered Violence.

GRievous were the various Effects, and ſad Events of the late Civil War; Force was repelled with Force, and the Publick Polemical Sword, aggregate and made up of all the Ammunition and Arms, and Military Strength of the Three Kingdoms (the juſt Indubitable, and Inalienable Right of King *Charles* the Firſt in all his Dominions by vertue of his Royal Seigniory) was put into the Hands of the People, for the Protection and Security of thoſe then at *Weſtminſter* from the Law, who againſt Law Ruled not, but rather Overruled their fellow Subjects, at, and after their own Wills and Pleaſures, and did cut large Thongs out of others Hides, to alter the Government in Church and State, for no other reaſon, but that they themſelves could not be ſafe under the ſame; they could not be Happy, unleſs King *Charles* the Firſt were Miſerable; they could not enjoy their Lives, Peace, and Liberties; but they muſt firſt deſtroy his Friends, and afterwards in cold Blood Barbarouſly Murder him. Imparallel'd and unheard of Cruelty! Monſtrous Impudence and Impiety! Killed their King? nay, their Good and Godly King. It went not againſt their Conſciences, becauſe he made a Conſcience to Deny them, what according to good Conſcience he could not Grant

Grant them. I remember in time before the late War, above Forty years ſince, in an old Obſolete Author I met with this paſſage, (*Certant hæc duo plerumque invicem inter ſe, Rex & populus, quorum ſi vicerit unus, perſonam induit tyranni; ſi vincitur, tot millia tyrannorum, quot capitum naſcuntur; Crudelior autem ſemper eſt tyrannis multorum, quam unius.*) which Engliſhed is, That theſe Two (that is to ſay) the King and People do oftentimes Struggle, are in Conflict and Strife between themſelves; of whom, if one (that is to ſay) the King, do overcome, then he becomes a Tyrant, but if he be overcome, thence proceed, riſe up, or take beginning to be, ſo many Thouſand Tyrants, as there be Heads of Rebels, or of ſingle Individual Perſons engaged in the Rebellion, and concludes, that more Cruel is the Tyranny of many than of one. The whole truth of the Concluſion, was lately ſeen in the Tyranny of a company of Men ſitting at *Weſtminſter*, called Lords and Commons, who Arbitrarily Reigned and Ruled over their fellow Subjects, according to their Wills and Pleaſures, as if the Iſſue of the Fightings of their Armies, had been centured only in the making of the People of the Kingdom Slaves. Then followed the contempt and Oppreſſion of the Clergy, and ſacrilegious Invaſions were made upon the Rights of the Church, and Men of the Church, injurious Diminutions and Perſecutions of the Loyal Laiety by Sequeſtrations, Decimations, and otherwiſe enſued, whereof we of the Loyal Party were not only Witneſſes and Spectators, but therein we were fellow Sufferers. Now the Writs of the King ſuffered Violence, of which Mr. *Fitzherbert* in his Preface to his *Natura Brevium*, ſaith, that they be the Foundations whereupon the whole Law doth depend; of the which Writs and Proceſſes, as be appointed in the Law; it is ſaid in St. *Jermin*, in his Book Written by way of Dialogue, called *Doctor and Student*, Fol. 64. *a.* That the King as Sovereign and Fountain of the Law, is bounden of Juſtice to Grant them to every Perſon that will Complain, be his Surmiſe true, or falſe. Yet in ſtead of *Carolus Secundus Dei Gratia, &c. Vicecomiti, &c.* was uſed, The Keepers of the Liberties of *England*, by Authority of Parliament, To the Sheriff of, *&c.* But thoſe who had built this Babel, by their Diviſions and Jealouſies, one had of another, were in time brought to ſtrange Confuſions. The Writs were to run no longer in the Name of the Keepers, *&c.* But all Writs and Proceſs were iſſued forth in the Name of *Oliver* their General. The Independent, though the Younger, now prevailed againſt the Presbyterian the Elder Brother, whath the Elder had hunted after, the Younger now catched for himſelf. And now alſo it may be obſerved, that a Houſe of Commons ſingly Aſſumed to themſelves the Title of, and were ſtiled the Parliament of *England*; though his Sacred Majeſty King *Charles* the Firſt had before truely told them, in his Speech to them 3. *Car.* that none of the

Houſes

Houſes of Parliament joint or Separate, had any Power either to Make or Declare a Law without his Conſent.

CHAP. V.

Sheweth about what time the Kings Writs were firſt framed for the induction of the Commons into the Parliaments of England.

FRom the *Norman* Conqueſt untill ſome time in the Reign of *H.* 3. Parliaments were holden by the King and his Barons Spiritual and Temporal; in whoſe days (it is thought) the Kings Writ for Election of Kinghts, *&c.* was firſt framed, and that the Commons were reduced to a Houſe by the Advice of the Biſhops to the King in the heat of the Barons Wars. It was thought expedient then to frame a Writ for their Induction, that they might allay and leſſen the Pride and Power of the Peers, who had waged War ſo many years againſt the Crown. However leaſt they ſhould arrogate too much Authority to themſelves, they never could ſo much as exhibit an Oath, nor impoſe a Fine, or inflict Puniſhment upon any but their own Members, until the time of the late Uſurpers, when they were grown to that height of Impudence, that the King himſelf, and Lords Spiritual and Temporal were Excluded by them: of whom (as well before the *Norman* Conqueſt as ſince) the Ancient Parliaments of *England* conſiſted only, without them. For it is true the People were wrought under by the Sword of the firſt *William* and his followers to a Subjected Vaſſallage, Diviſion and Power had Maſtered them, none of their old Nobility and Heads were left either of Credit or Fortunes, what he Detained not in Providence (as the Demeans of the Crown) or reſerved in Piety (as for the Maintenance of the Church) he parted and divided amongſt thoſe Strangers that Sailed along with him in the ſame Bark of his Adventure; leaving the Natives for the moſt part (as may be ſeen by his Survey called *Domeſday Book*, now in the Exchequor) in no better a condition than Villenage. To ſupply his Occaſions of Men, Money, or Proviſions, he Ordered, that all thoſe who injoyed any fruit of his Conqueſt, ſhould hold their Lands (proportionably by ſo many Knights Fees) of the Crown. And permitted them to Enfeoffe their followers with ſuch parts as they pleaſed of their own Portions: which (to eaſe their charge)

charge) they did in his and his Sons time. This course provided him the Body of his War, the Money and Provision was by Hidage Assessed on the Common People, at and with the consent of their Lords, who held in all their Seigniories such right of Royalty, that to their vassals (as *Paris* saith) they were *quot domini, tot Tyranni*, and in time provided to the Kings so great a Curb and restraint of Power, that nothing fell into the Care of Majesty after, more than to retrench the force of Aristocracy, that was like in time to strangle the Monarchy. Though others foresaw the Mischief betimes, yet none attempted the remedy until King *John* whose overhasty undertakings brought in the mentioned broiles of the Barrons Wars: there needed not before this, Care to Advise with the Commons in any Parliamentary or Publick Assemblies, when every Man in *England* by Tenure held himself to his great Lords Will, whose Presence was ever required in their Parliaments, and in whose Assents, his dependant Tennants consent was ever included; from what is aforesaid, the Commons of *England*, or rather they (whom the Commons shall Elect to future Parliaments, and are properly said in Parliament Assembled to be the Representatives of all the Commons of *England*) may take notice, that Anciently was in use only one Writ of Summons to Parliament, by which the King Summoned the Lords Spiritual and Temporal separately to come to his Parliament, at a certain Day and Place appointed in the Kings Writ. And of later times (with the reasons for the one, and the other) there hath been an Additional Writ framed which is sent to every Sheriff of *England* and *Wales*, for Election of Knights, *&c.* for the Parliament in the Kings Name; and when sent it is called the Kings Writ, and is directed to his Subordinate Officer the Kings Sheriff. For the truth is, the King by his Writ, giveth the very Essence and Form to the Parliament: which is to be Summoned when he pleaseth, to be Adjourned, Prorogued, and Dissolved, when he pleaseth. And in all good times of Government (before and since the Conquest) it was ever in the Kings power, and was, and is his Priviledge, Royal Prerogative, and Regality, to Grant or Deny such Petitions as he pleaseth, and all Acts of former times, and some of latter time were, and are in form of Petitions.

Chap. VI.

Sheweth the difference between Parliamentary Priviledges, and the Priviledges of the King; and sheweth how at first Kingly Government was constituted by God himself, and that by Gods Law also the Legislative Power, and the Power of the Militia was given to the King; and that in these highest Points of the Kings Prerogative, the Law of England *is agreeing with the Law of God, and that God is* vindex sui Ordinis, *the avenger of his own Ordinance.*

THE Speaker of the House of Commons (on the first day of every Parliament) is usually Presented to the King, and (in the Name of the Commons of *England*) he humbly Prays, his Majesty would be Graciously Pleased to Grant them their Liberties and Priviledges; which is a strong Argument that their Priviledge (their pretended Birthright and Inheritance) floweth only from the Kings Primitive Grace and Favour; and that they would not pray that, *de Gratiâ*, of Grace, if they had any Colour to claim the same, *de Jure*, of Right. And the renewing of this Petition every Parliament, proves the Grant to be but Temporary. But the late Usurpers pretended they had Priviledge granted to them to sit by the Mentioned Act of Continuance, *&c.* And therefore all fair Offers from his said Majesty for Publick Good, and for the Preservation of the Government in Church and State, were afterwards interpreted a Breach of Priviledge. Though the soundest Lawyers of that time, were of Opinion, that the said Act of Continuance was Void in it self; in regard that what Grants or Concessions soever the King makes, the Law presupposeth, they are always with this Proviso, *Salvo jure regio, salvo jure Coronæ*; In the 20*th.* of *Rich.* the Second, it may be seen in Mr. *Howes* Chronicle, that a Parliament holden at *Westminster* was Ordained to endure Forty eight days; but it was Abridged, for the King would not tarry there more than Five days, wherein he declared the things pertaining to the Realm, especially such Matters as touched himself, *&c.* One property of every good Law of Man, is that the Maker exceed not his Authority, which certainly they did that framed that Bill for the Act of Continuance, *&c.* And *Coke* 10*th. rep.* 57. *b.* it is agreed, that *Parliamentum*,

mentum, teſtamentum, & arbitramentum, are to be conſtrued according to the intention of the Makers; the ſaid King certainly intended not thereby to Exclude himſelf, becauſe by the Laws of our Land, it cannot properly be ſaid a Parliament, unleſs it be conſiſting of King, Lords, and Commons. And if Kingly Government be conſtituted by Divine Right, then St. *Jermyn* tells us, that Cuſtoms and Statutes are void, that are againſt the Law of God, and ſo that Act was null in its own Nature at the very firſt, and the propoſal of it, was Treaſon in a high degree. Parliamentary Priviledges are but Temporary, and are not in them, till asked by their Speaker *Precario,* and granted by their Sovereign. But Mr. *Plowden,* Fol. 322. *b.* ſaith, that every Prerogative of the King containeth in it ſelf a Preſcription, for it reſteth in uſage. And Fol. 319. *b.* and 322. *a.* he ſaith, that the Prerogative of the King may not be ſaid to be *torcius*, that is conſonant to reaſon, and hath been uſed from time to time, in the time of one King after another, for the Law is not known if not by uſage, and uſage proveth that it is Law. And Fol. 322. *a.* and 323. he ſaith, all the Prerogatives mentioned in the Statute of *Prerogativa Regis* made in 17°. *Ed.* 2*di.* were in the King by the Common Law, before the ſaid Statute, and many others, and Fol. 318. *a.* he ſaith, It is a commendable thing for the King to abſtain from the extremity of his Prerogative of his ſpecial grace in benefit of his Subjects, but withall ſaith, that the Law doth not force him ſo to do. And Sir *Ed. Coke* in the Firſt part of his *Inſtitutes,* Fol. 90. *b.* ſaith, that *Prærogativa* is derived of *præ, id eſt, ante,* and *rogare,* that is to ask, or Demand before hand, whereof cometh *Prerogativa,* and is denominated of the moſt excellent part, becauſe though an Act hath paſſed both the Houſes of the Lords and Commons in Parliament, yet before it be a Law, the Royal Aſſent muſt be asked or Demanded, and Obtained, *Bracton li. j°.* calleth it *libertatem,* in another place *privilegium Regis. Britton* Fol. 27. calleth it *droit le Roy,* the Right of the King: the Regiſter of the Writs calleth it, *jus regium Coronæ,* the Royal or Regal Right of the Crown. And Mr. *Stanford in Prærog.* Fol. 5. *a. b.* ſaith, *Prærogativa,* is as much to ſay, as a Priviledge or Preeminence that one perſon hath before another, which as it is tolerable in ſome, ſo it is moſt to be permitted and allowed in a Prince, or Soveraign Governour of a Realm, for beſides that, he is the moſt worthyeſt or excellent Part or Member of the body of the Commonwealth, ſo is he alſo (through his good Governance) the preſerver, nouriſher, and defender of all the People, being the reſt of the ſame body, for which cauſe the Laws do attribute unto him all Honour, Dignity, Prerogative and Preeminence. It is ſaid, *Coke* 7. 10. *b.* and 11. *a.* That the King is an abſolute Prince before his Coronation, which is but a Royal Ceremony, Ornament and Solemnization of the Royal Deſ-

cent, but no part of the Title, and that *Rex, non est Rex, quia Coronatur, sed Coronatur quia est Rex*, The King is not a King, because he is Crowned, but he is Crowned, because he is a King. And *Coke* 11. 72. *a.* The King is said to be *sponsus Regni*, and *per annulum*, by a Ring, is said to be espoused to the Realm at his Coronation; which is a great Mark of Soveraignty and Power in the King over his People; for admit the King to be *sponsus*, the Bridegroom, or new Married Man, and the Realm to be *sponsa*, the Bride or new Married Woman at this Solemnity of his Coronation, every Woman is *sub potestate viri sui*, under the Power of her Husband, *& ipse dominabitur ejus*, and he shall Rule or Reign over her by Gods Law: *Gen.* 3. 16. and our Law doth not estrange the Husband of any Interest, Prerogative, or thing that the Wife hath at the time of the intermarriage or after. But as in all Rebellions, so in the late time of Rebellion, the Woman wore the Breeches, as is easily proved by the Money Coined in those times. Also in *Coke* 7. 10. *b.* The King is said to be *pater patriæ*, the Father of his Country, which is another Mark of his Soveraignty and Supream Power; for at the beginning of Kingdoms, when all the World consisted of a few Households, the Elder or Father of the Family exercised Authority over his Meyney, and did distribute reward or punishment amongst them after his own discretion: all which aforesaid is agreeing with what the Poet saith, *Jura dant singuli natis, & uxoribus*, every single individual Person gives Laws to his Wife and Children. This was *patria potestas*, Fatherly power, the fountain of *Regia potestas*, Kingly power; and so *Regia potestas* is *lege Naturæ non arbitrio populi*, and so Kingly Authority is by the Law of Nature, not by the Will, Power, or Arbitrement of the People, *& leges Naturæ perfectissimæ sunt, & immutabiles*, and the Laws of Nature are the most perfect, and not to be Altered or Changed. No sooner was there a Household but there was a Soveraign; All regal Authority was then included in the Office of Father. And therefore God Almighty in giving the Fifth Commandment (called the Crown Commandment) *Honour thy Father and thy Mother*, intended the Duty belonging to all Magistrates. Afterwards when Households grew to that greatness, that they were like to little Commonweales, so that *Abram* out of his own Household could raise an Army of 318, *Gen.* 14. 14. then being not only *patres familiæ*, but in Title Kings, they were called by a mixt name of both *Patriarchæ*, which signifies Fathers and Kings: at length when by the increase of the World, many Houses and Towns joyned in subjection to some one Soveraign Power; then was *pater* left out, and they were called by that name they now have ἀρχαὶ or ἀρχοντες, Powers or Rulers, and thus we had Magistracy begun by God himself in the very cradle of Nature. So that our Obedience to Princes, is a very material,

terial, great and important Point of Religion; since the Scriptures dictate to us, that the beginning of Kingdoms, was first *lege Naturæ*, after *institutione Dei*, lastly *consensu & voto populi*: for though the *Israelites* demanded a King (1 *Sam.* 8*th.*) yet they asked him to be made by *Samuel*, as the mouth of God; and after *Samuel* had told his Power and Prerogatives over them, then (notwithstanding all) they gave their absolute Assent to yield to him (*ver.* 19, and 20*th.*) to be their Judge in Peace, and Captain in War. Whence I pray, with me observe that even at the very first settling and constituting Kingly Government, the Legislative Power was given to the King, he was to be their Judge in Peace, and the Militia and Power thereof was then also given to the King, he was to be their Captain in War. Hence it is, that it was said by *Bracton*, cited by *Coke* 7. 11. *b. Est Corona Regis facere justitiam, & tenere pacem, &c.* and again in *Coke* 7. 25. *b.* that it belongeth only to the King, *fœdus percutere, & bellum indicere*; so that to do Justice and preserve the Peace, to put a suspention to War by making a League or Truce, and to proclaim War, is *jus Majestatis, & inter insignia est summa Regis potestas*, amongst all the signally highest Points of the Kings Prerogative; these are only the Rights inherent to the Supream Power of the King; and so you have a perfect harmony between Divinity and Law, and our Law agreeth with the Law of God. And to shew you further wherein it is not dissonant; but doth *quatuor pedibus currere*, run upon all four, and is fully agreeing with the Law of God, mark what St. *Peter* commands, 1 Pet. 2 chap. 13, 14, verses, *Submit your selves to every Ordinance of Man for the Lords sake, whether it be to the King as Supream, or unto Governors, as unto them that are sent by him, for the punishment of evil doers, and for the praise of them that do well*, in which words all Believers both *Jews* and *Gentles*, are disswaded from Rebellion, and by St. *Peter* are admonished and commanded to be obedient to Authority; for in these words of the Apostle, the Authority of the Magistrate both Supream and Subordinate is fully Established and Justified, not by Humane only, but also by Divine Right; not as a thing brought into the World by the Ambition of Governours, that they may have a (*præ esse*) a precedency, or preeminence above others only, but that they should afford their (*prodesse*) too: and be instruments of good and welfare to the whole Community. It is true, Civil Government or Magistracy is called by St. *Peter*, Mans Ordinance, or *humana ordinatio*, the Ordinance of Man. And so it may be said to be, *Subjectively*, as being joyned or born by Man; or *Objectively*,, as imployed amongst Men; or *Finalliter*, in respect of the End, it is for the Good of all Men. But that Kingly Government may plainly be demonstrated, not only to be ἀνθρωπίνη κτίσις, the Creature or Creation of Man, but also κτίσις θεῦ, the

Creation

Creation or Creature of God: let us conſult again, 1 *Sam.* 8*th. ver.* 21, 22. where we have the Prophet *Samuel* rehearſing the words of the People in the Ears of the Lord. And the Lord ſaying to *Samuel*, in the Imparative Mood altogether, hearken to their Voice, and make them a King. So we have the word of God Almighty himſelf expreſly for the Conſtituting of Kingly Government. And let St. *Paul* be admitted to comment upon St. *Peter*, who in the 13*th.* of the *Romans* 1, and 2. ſaith, *Let every Soul be Subject to the Higher Powers, for there is no Power but of God: the Powers that be are Ordained of God, whoſoever therefore reſiſteth the Power, reſiſteth the Ordinance of God*, and Denounceth no leſs pain than *Damnation to them that reſiſt.* Therefore as St. *Peter* adviſeth for the Lords ſake, yea! and for our own ſakes, we are to ſubmit our ſelves to every Ordinance of Man. For as St. *Jermin D.* and *Stud.* 32. ſaith, Laws made by Man, that hath received Power from God, to make Laws, are made by God. And again, Fol. 131. They that regard not the Kings Laws, reſiſt the Ordinance of God. And as Kingly Government is derived from, ſo it is Defended and Preſerved too by God himſelf. In time after the late Uſurpers had deprived his Sacred Majeſty King *Charles* the Firſt, of Wife, Childern, Army, Friends, Freedom and Life, and that their Power ſeemed to be above all Rule, Order, and Law; then it pleaſed God to ſtill the rageing of the Sea, and to put a ſtop or ſtay to the Madneſs of the People; and by his ſecret Power to direct their Hearts to cry out, and in their extremities (for the Reviving the Laws of the Land both in Church and State) to inſiſt upon the having of a free Parliament, which in Gods time opened the Door for the letting in of his late Sacred Majeſty to his moſt Miraculous and Happy Reſtauration. God at length ſhewed the People of this Nation, that King *Charles* the Firſt choſe rather to ſuffer for them, than with them, for he happily might have redeemed himſelf to ſome ſhew of Liberty, if he would, or rather could have conſented to enſlave us, he might have avoided that ruine that befell him, if he could have been willing to have confirmed many Tyrants over us. He that ſaid *Touch not mine Anointed, and do my Prophets no harm*; certainly (may we ſay) it is he alone, that by ſome ſecret Power, upholds his own Ordinance, againſt the Violence and Machinations of Rebels, and Thieves to; and from it we may ſay and acknowledge, (giving the Praiſe and Glory to God alone for the ſame) that he is *columnarum columna*, the Pillar that bears up the Pillars; he is *ſcutorum, ſcutum*, the Shield of Protection, for the Shields of our Earth. And that plainly appears by thoſe Judgments, wherewith God hath cut off thoſe that have Rebelled, with his own hand from Heaven. *Korah* and his Company (*Numb.* 16*th.*) for making Head againſt *Moſes* and *Aaron* (thoſe leaders of Gods People) that died not the Common death of all Men, but the

the Earth (as weary of ſuch a burthen) opened her Mouth, and ſwallowed them up, and they went quick into the Pit. *Abſalom*, for Rebelling againſt his *Patriarcha*, his Father and King, as one that deſerved no Favour, either from God in Heaven, or his Deputy on Earth, was hung up between Heaven and Earth (as unworthy of either) and was Strangled by the Hair of his own Head, the Flag of his Ambition was made the Inſtrument of his Execution. So that God himſelf may be ſaid to be *vindex ſui ordinis*, the avenger of his own Ordinance.

CHAP. VII.

Sheweth that vindictive Juſtice *is alſo derived from God to the King as Supream, and that all Subordinate Officers derive their Juriſdiction from the King, and through his Mediation from God alſo, and that herein the Law of* England *is alſo agreeing with the Law of God.*

NAY, it is ſaid, *Vengeance is mine and I will repay it ſaith the Lord*; and it is the very Ground and Foundation of all Order and Government, that it is ſo; for otherwiſe as Men do Multiply and Increaſe, natural Love doth decreaſe, and the Mightieſt (as ſo many Bulls in the Herd) would be moſt miſchievous to the Weaker, and would be always quarrelling about Limits and Rivers, from whence came the words, *Lis* and *Rivales*. And therefore this *vindictive Juſtice*, is derived alſo from God himſelf, to his Vicegerent on Earth the King (as St. *Peter* ſaith, where before cited) *for the puniſhment of evil doers, and for the praiſe of them that do well.* So that Magiſtrates are of two ſorts, Supream and Subordinate, Subjection is due to both, to the King as Supream, and to the ſubordinate, ſuch as are Judges, Juſtices, ſuch as are *miſſi*, Commiſſioned Officers, and ſent by him that is the King, for as he hath his Authority immediately from God, ſo they have theirs from him, and through his Mediation from God alſo. As God hath confirmed the Kings Supremacy, ſo hath he alſo ratified his Subordinate Officers deputation, as may be ſeen, *Exodus* 18. 18. where we have *Jethro* the Father in Law counſelling *Moſes* his Son in Law, about the Prerequiſite quallifications, who they ſhould be, and the buſineſs of Judges, what they

must

muſt do; but neither of theſe without Gods approbation, and therefore by *Moſes* followed then, and by all Kings obſerved ever ſince; they were to be able Men, ſuch as feared God, Men of truth, hating Covetouſneſs, ſuch as theſe were to be placed over the People, to Judge them at all ſeaſons. Hence it is, that *Bracton* (cited by *Stanford*, 54, 55.) ſaith *Dominus Rex habet Ordinariam juriſdictionem, dignitatem, & poteſtatem ſuper omnes qui in regno ſuo ſunt, habet enim omnia jura in manu ſuâ, &c.* Our Lord the King hath the Supream Juriſdiction, Dignity, and Power over all the People that are within his Realm; he is ſaid to have all the Laws in his hand which belong to the Crown, he hath alſo the Material Sword, which extends to the Government of the Realm in War, he is alſo ſaid to have Juſtice and Judgment, which are of his Juriſdiction, as within his Juriſdiction only, as he is the Miniſter and Vicar of God, and is to diſtribute to every one what is his. He hath alſo in him, *quæ ſunt pacis*, the Powers which are of, or belong to the preſervation of Peace, that the People (with the Governance of whom God hath intruſted him) may live quietly and ſafely in Peace, that one may not Beat, Wound, or evil Intreat another, that one may not by Force and Robbery Steal, or bear away that is another Mans, or one may not Maim or Kill another. He hath alſo Puniſhment in his Power, that he may Puniſh and Correct Offenders, *&c.* However for the King in Perſon to Arreſt or Commit a Man, or do any Offices of Juſtice, is *indignum rege*, is beneath the King; Mercy and Honour flow immediately from the King, Judgment and Juſtice are his too, but theſe flow from his Miniſters. And therefore leaſt there ſhould be a failer of Juſtice, and becauſe the King himſelf in Perſon may not be Judge or ſit in Judgment in Treaſon or Fellony, becauſe he is one of the Parties to the Judgment; he may therefore commit his Authority to another, who is to be Judge between him and the Offender. And therefore *Expedit rei publicæ ut Magiſtratus conſtituatur*, and to this purpoſe, *Eligere debet Rex de regno ſuo, viros ſapientes, & timentes deum, &c. & ex illis conſtituere juſticiarios, &c.* Therefore it was thought expedient for the general good of all; that Magiſtracy ſhould be Conſtituted and ſettled. And in this work of Conſtituting Magiſtrates, the King (as it is ſaid (*Exod.* 18. 22) in his own eaſe, and that they might help to bear the burthen with him) is to Elect and Chooſe out of the Kingdom wiſe Men, Men fearing God, regarding the Truth, hating Covetouſneſs; and of ſuch to make and create Judges, Juſtices, Sheriffs, and other his Miniſters and Bayliffs, to whom are referred all matters of Controverſie, relating either to real or perſonal Actions; ſetting forth perſpicuouſly and more fully all the prerequiſite good properties he ought to have, and to be indued with all, to whom the King ſhall commit the Office of a Judge, Juſtice, *&c.* *Et ſic concardat lex divina non aliquan-*

aliquantulùm, ſed quamplurimùm cum humana, And ſo the Law of God is not ſomewhat, or a very little, but very much agreeing with the Law of *England*, eſpecially in theſe matters relating to the Royal Priviledges and Rights of the Crown. Now theſe Royal Rights and Juriſdictions may not be Transferred to Perſons or Tenements, or poſſeſſed by any private Perſon, *niſi hoc datam ſit ei de ſuper*; unleſs it be given him from above, (that is to ſay) from the King. Now *delegatus dicitur, cui cauſa demittitur terminanda vel exequenda, vices delegantis repreſentans, & in Juriſdictione nihil proprium habens*, he is ſaid to be a delegate to whom Authority is committed to Handle and Determine Matters, being the Repreſentative of him that Delegates him, and yet he hath no propriety in the Juriſdiction, nor can properly call it his own. So it is with Judges, Juſtices, the Judgments, and the Courts; they are called the Kings Judges, the Kings Juſtices, the Kings Judgments, and the Courts of our Lord the King. So that *Juriſdictio delegata, non delegari poteſt, quin poteſtas Ordinaria remaneat cum ipſo Rege*, this Juriſdiction delegated cannot be delegated, but ſtill the Supream Power muſt remain with the King himſelf.

CHAP. VIII.

Sheweth that the Subjects of England *are bound by their bond of Allegiance to ſerve the King only in his Wars, and that the King is the Fountain of Honour: and by way of Induction to the ſame, ſomething is ſaid of a Countee* Palatine, Davids *worthies, and good old* Barzillai *the* Gileadite.

IN our Books, we read of a Countee *Palatine*, to have divers Royal Franchizes and Priviledges, which were not Granted to other Earls; and that the Doctors of the Imperial Law hold, *Quod ſolus Princeps, qui eſt Monarcha & Imperator in Regno ſuo, ex plenitudine poteſtatis, poteſt creare Comitem Palatinum*, according to which Rule the King of *England* may well Create a Countee *Palatine*, for he is *Monarcha & Imperator in Regno ſuo*, as is apparent by many Records and Judgments in Parliament. Here we may obſerve by the way, that when once the King was Inveſted with Royal Authority, that his workings in his Sphear were Honoured with the

Name of Creation; he was ſaid to Create, as we may ſay in our own Phraſe, Men that are Advanced by the King to ſome Title of Nobility, or Office of State, are commonly ſaid by him to be Created, and that the Stile of their Pattents, is not only *facimus*, but *creamus*, that (as in Scripture) Kings are Named Gods, *I have ſaid, ye are Gods.* So they may in their Sphear do ſomething reſembling the Power of God. And every Countee *Palatine* Created by the King of *England* is Lord of a whole County, and hath in it *Jura Regalia*, which are conſiſting in Two principal Points, 1*ſt.* In Royal Juriſdiction, by reaſon whereof he hath all the High Courts and Officers of Juſtice the King hath. And 2*ly.* In Royal Seigniory, by reaſon whereof he hath all the Royal Services and Eſcheats that the King hath. And therefore this County is meerly disjoin'd, and (as it were) Seperated from the Crown: as is ſaid in the Caſe of the *Dutchy Plow.* 215. *b.* ſo that no Writ of the King runneth there, unleſs it be (*Obſerve*) a Writ of Error, which being the laſt Reſort and Appeal, is only excepted out of all their Charters, 15. *Eliz. Dyer* 321. and 345. and 34. *H.* 6. 42. and as to Royal Eſcheates, the Countee *Palatine* hath the Eſcheates of Treaſons that the King by his Prerogative ſhall have of Lands holden of all other Lords; but that is to be underſtood, of Treaſons, which were ſo at the time when the Countee *Palatine* was firſt Erected, and not of new Treaſons by Act of Parliament afterwards 12. *Eliz. Dyer* 288. *b.* 289. *a.* and this *comes Palatinus* was ſo called, *à comitando vel ſequendo principem*, and the Perſons advanced to this Name or Title of Honour, were *ſummi proceres & à Rege proximi*, he was to be a Chief Officer and Counſellor in the Pallace of the King; and it is ſaid, he was not only to be a Companion of the Perſon of the King, but he is to be *comes curarum* alſo, he is *par extans curis, ſolo diademete diſpar*, and is to Sink and Swim at all times and ſeaſons with his Lord the King, though it be in troubled Waters. So that the King is, and ever was the fountain of Honour; for as it belongeth only to the King of *England* to Make or Coin Money, and that no other perſon can do the ſame without ſpecial leave or Commandment of the King; and if any preſume of his own head to Coin Money, it is Treaſon. And as he only hath the Priviledge to Coin Money, ſo he hath the ſame Prerogative to give a vallew to baſe Metal by his Impreſſion or Character, as he hath to give a higher Eſteem to a mean Perſon, by imparting the Character of Honour to him, *ſic fiet viro, quem Rex honorare deſiderat, Davyes rep.* 19. *a.* 25. *a.* yet the Countees *Palatine* are to take notice what is ſaid alſo in *Davyes rep.* 66. *b. Comites Palatii regalem habent poteſtatem in omnibus, ſalvo dominio Domino Regi, ſicut Principi*, Countees *Palatine* have Kingly Power in all things (excepted always

always nevertheleſs) Lordſhip, Dominion, and the Power to Rule over them and their Counties to the Lord the King, as their Prince and Soveraign. And they and all the Nobility (either of the more Ancient, or the latter impreſſion) are to know, that no Lord can be Ancienter than the King; for all was of him and came from him at the beginning, *Stanf. prer.* 10*th. a.* and we have a ſaying in our Books, that *honor eſt in honorante non in honorato*, that Honour is in him that doth the Honour, not in him that is Honoured; and amongſt many reaſons might be given for the ſame, I ſhall only preſume to mention one, which is, that Perſons of Honour ſhould ſo behave themſelves to all Men, that they ſhould not give the leaſt occaſion to any Man to think much leſs to ſpeak Diſhonourably of them. In the 2*d.* Book of *Samuel* 23*d. chap.* we have a Catalogue of *Davids* Worthies, of whom ſome were more mighty, and had done more ſignal Services than others of them, and therefore were more Honourable than the others: ſo we may alſo ſee in the ſame Book of *Samuel*, in the 17*th.* and 19*th. chapters*, That *Barzillai* the *Gileadite* of *Rogelim*, that (when the Armies of *Iſrael* and *Abſalom* were pitched in the Land of *Gilead*) had relieved *David* and his People with him, with all manner of Forrage, Beds, Baſons, Earthen Veſſels, Wheat, Barley, Flower, parched Corn, Beans, Lentils, parched Pulſe, Honey, Butter, Sheep, and Cheeſe of Kine, that *David* and the People with him might Eat and refreſh themſelves; for there it is ſaid, the People were hungry and weary, and thirſty in the Wilderneſs, in the 18*th. chap.* we have the Relation of the Defeat of *Abſaloms* Army and his death; in the 19*th. chap.* we have King *David* ſaying unto *Barzillai*, come thou over *Jordan* with me, and I will feed thee with me in *Jeruſalem*. *Barzillai* was to have been made *Comes Palatinus*, was to be taken into the Kings own Family, and to feed with the King at his own Table. But the good old Man being very Aged excuſed the matter, ſaying, Thy Servant will go a little way over *Jordan* with the King: and why ſhould the King recompence it me with ſuch a reward? Let thy Servant (I pray thee) turn back again, that, *&c.* But behold! my Son thy Servant *Chimham*, let him go over with my Lord the King, and the King anſwered, *Chimham* ſhall go over with me, and I will do to him that ſhall ſeem good unto thee, and whatſoever thou ſhalt require of me, that will I do for thee: and all the People went over *Jordan*, And when the King was come over, the King kiſſed *Barzillai*, and Bleſſed him, and he returned to his own place. Hence may be inferred, that the King hath not only *pœnam*, Puniſhment, but alſo *præmium*, Reward, in his Power, and ſo he is ſet over us, not only for the puniſhment of them that do evil, but alſo for the praiſe and reward of them that do well. And as it

for the Life only of King *David*, to have created *Chimham*, *Comitem Pallacii ſui*, or *Pallainum*, had not been a reward ſuitable to the Merits of good old *Barzillai*, in the Firſt Book of *Kings*, the 2*d. chap.* and the 7*th. verſe*, we may ſee, That when the days of *David* drew nigh that he ſhould die, and that he gave ſeveral things in charge to *Solomon* his Son; amongſt the reſt he gave him a ſpecial charge to ſhew kindneſs, not unto *Chimham* only, but unto all the Sons of *Barzillai* the *Gileadite*, charging him, that he let them be of thoſe that Eat at his Table (rendring this for reaſon) for ſo they came to me when I fled becauſe of *Abſalom* thy Brother. *Abſit*, be it far from me, I do not mention this matter, as if I would thence infer, that King *David* was obliged to have done this Honour to *Barzillai* and his Sons: No! *Cujus eſt dare, ejus eſt diſponere*, he that hath the power to give Honour or Reward, hath alſo the diſpoſing power to give, to whom, what, and when he pleaſeth; and the very words of *Barzillai* (and why ſhould the King recompence it me with ſuch a reward) manifeſt, that good old *Barzillai* thought it his bounden Duty to do what he had done. And as appears (by the preamble of the Statute of 11*th. H.* 7*th. ca.* 1.) Every Subject of this Realm of *England* by Duty of Allegiance is bound to ſerve his Prince and Soveraign Lord in his Wars, for the defence of him and the Land againſt every Rebellion, Power and Might, reared againſt him, and with him to enter and abide in ſervice in Battel. And Sir *Edward Coke* alſo (in the 7*th.* part of his *Reports* Fol. 7. *b.* 8. *a.*) ſaith, that all Subjects are bound to go with the King in War, *infra & extra regnum*, both within and without the Kingdom.

CHAP.

CHAP. IX.

Herein you have a Subject defined, you have Ligeance defined, and is ſhewed that the King hath two Capacities, the one Natural, and the other Politick, that the body Politick cannot be ſeparated from the Body Natural; that Ligeance is due to the Natural Body of the King; that the Kingdom of England *admits of no* interregnum, *and that the Diſheriſon of the Right Heir of a Kingdom is wont to be the beginning of Civil Wars.*

NOW whoſoever is born under a natural Ligeance due by the Law of Nature, is a Subject. And it is neither *cælum*, Heaven, nor *ſolum*, the Soil, that makes the Subject, but Ligeance: which is of as large extent and Latitude, as the Royal Power and Protection of the King is; which Allegiance or Ligeance is a true and faithful Obedience of the Subject due to his Soveraign; and is, or ought to be an incident inſeperable to every Subject; becauſe *Ligeantia eſt vinculum fidei*, the bond of Faith, *eſt quaſi Legis eſſentia, eſt ligamentum, quaſi ligatio mentium; quia ſicut ligamentum eſt connexio articulorum & junctur arum, &c.* As the Ligatures or Strings do knit together all the Joints of all the parts of the Body, ſo doth this Ligeance joyn together the Soveraign and all his Subjects; *quaſi uno ligamine*, as in one knot or tye. In ſome Acts of Parliament, Subjects are called Leige Subjects or Leige People; and again in ſome Acts of Parliament, the King is called Leige Lord of his Subjects, ſo that I may further ſay, *Ligeantia eſt quid quodamodo reciprocum*, a certain Reciprocal thing; hence it is we ſay, *Protectio Regis trahit ſubjectionem ſubditi, & ſubjectio ſubditi trahit protectionem Regis*, The Protection of the King doth draw or attract the Subjection of the Subject, and the Subjection of the Subject doth draw or attract to it the Protection of the King. So that this Ligeance is the mutual Bond and Obligation between the King and his Subjects, whereby Subjects are called his Leige Subjects, becauſe they are bound to Obey and Serve him, as well in times of War, as in times of Peace; and he is called their Leige Lord, becauſe he is

to

to maintain them in their juſt Rights and Liberties by the power of the Sword times of War, and by the Legiſlative power to defend them in times of Peace from Injuries and Oppreſſions. Now the King is ſaid to have Two Capacities, one Natural, the other Politick, one framed of God, the other by the Policy of Man, one ſubject to Infirmities, the other not. And the Eſtate Royal or Politick doth not confound the capacity of his Body Natural, but their Capacities remain diſtinctly as in other Perſons that have double capacity as a Biſhop or a Dean, *&c. Plow.* 234. *a.* and the Body Politick of the King may not be disjoyned or ſeparated from his Body Natural, *Plow.* 230. *a.* 242. *b.* So that when the King is Sworn to his Subjects (as he is at his Coronation) he taketh Oath in his Natural Perſon, for the Politick Body is immortal, and inviſible, nay, the Politick Body hath no Soul; for (as is aforeſaid) it is framed by the Policy of Man, and therefore the King cannot be ſaid to Swear in his Politick Capacity. In likewiſe when at the Aſſizes by the Judge of the Goal delivery, at the Seſſions of the Peace, by the Juſtices or the Commiſſioners of the Peace; when at, or in the Leet, by the Steward there, the Subject is, or ſhall be Sworn to the King, to bear Faith and true Allegiance to his Majeſty, his Heirs and Succeſſors; then the Subject is Sworn to bear Faith and true Allegiance to the Natural Body of the King. And accordingly in all Indictments of Treaſon, when any intend or compaſs *mortem & deſtructionem Domini Regis* (which muſt needs be intended and underſtood to be of his Natural Body, for his Politick Body is Immortal and not ſubject to Death) the Indictment always concludeth with *contra Ligeantiæ ſuæ debitum*, contrary to the Duty of their Allegiance; and therefore Ligeance is due to the Natural Body of the King. And Sir *Edward Coke* ſays, this Ligeance or Faith of the Subject is *proprium quarto modo*, to the King (a degree beyond the Grammarians Superlative) *omni, ſoli, & ſemper*, to every King; to the King alone, and always to the King. And it will be material, and not contrary to Sir *Edward Cokes* meaning, to add theſe words (*de jure*) to every of his *omni, ſoli, & ſemper.* And ſo Ligeance will be due (as it is) to every King that is ſo *de jure* of Right, to him alone that is ſo; and always to him that is King *de jure* of Right. Thereby every King *de facto*, and Uſurper will be excluded, and the greater ſafety will be ſecured to the King, and to the Subject too; for the Diſheriſon of the Right Heir of a Kingdom is always wont to be the beginning of Civil Wars. But however Sir *Edward Coke* omitted thoſe words (*de jure*) yet his meaning was without queſtion the ſame, as if thoſe words had been added, becauſe *C.* 7. 10. *b.* he ſaith, that the King holdeth the Realm of *England* by Birthright, upon which Succeſſion is ever attendant, and in the ſame place he ſaith, that the King *in individuo moritur*, but not *in genere*, which is as much as to ſo ſay,

that

that the Natural Body of the King is ſubject to Death, but the body Politick of the King dyeth not. And therefore the Death of the Natural Body of the King is called, *Plow.* 234. *a.* the Demiſe of the King, becauſe that thereby he Demiſeth the Realm to another, and the Body Politick is transferred from one Body Natural immediately to another Body Natural, that Right hath; and that becauſe our Realm doth not admit of any *Interregnum.* Hence it was that in the year of our Lord, 1660. at the very inſtant of his late Sacred Majeſties moſt happy Reſtauration, all Charters, and Writings whatſoever were Written, Reputed and Eſteemed to be made in the Twelfth year of his Reign, though that from 1648. to that time, he was injuriouſly and wickedly, Deprived, Robbed, and kept out from his Inheritance of all his Regal Rights of the Crown (whereof he was the undoubted right Heir) by the late Uſurpers.

CHAP. X.

Herein you have an Heir deſined, and divided, and is ſhewed, that the Right Heir of the Crown ought not, nor can lawfully be Diſinherited; that a Baſtard ought not, nor can be Heir to the Crown; and further ſomething is ſaid to the late Bill for the Excluſion of the late moſt Illuſtrious Prince James *Duke of* York, *now our Soveraign Lord, King* James *the Second.*

NOW Sir *Edward Coke* in the Firſt part of his *Inſtitutes* Fol. 7. *b.* ſaith, that in the Legal underſtanding of the Common Law, he is ſaid to be *hæres*, an Heir, that is, *ex juſtis nuptiis procreatus*, for *hæres legittimus eſt, quem nuptiæ demonſtrant*, and is he to whom Lands, Tenements, or hereditaments by the Act of God, and right of Blood do deſcend of ſome Eſtate of Inheritance; for *ſolus deus hæredem facere poteſt, non homo*, God alone can make an Heir, not Man. And Heirs, are either Lineal, (who ever ſhall firſt Inherit) or Collateral, (who are to Inherit for want of Lineal) Lineal deſcent is conveyed downwards in the right Line, as from the Grandfather to the Father, from the Father to the Son, *&c.* Collateral deſcent is derived from the ſide of the Lineal, as Grandfathers Brother, Fathers Brother, *&c.* Now in Mr. *Swinb.* 5*th.* part, Fol. 289. he that hath Iſſue Natural, but not Lawful, is ſaid to die without Iſſue, and in ſuch Caſe, the Fathers Brother

Brother ſhall Inherit, and not the Iſſue Natural of the Father, for ſuch Iſſue Natural in our Law is ſaid to be *nullius filius*, no Mans Son; whence may be Inferred, that no Mans Son ſhall Inherit no Mans Land, much leſs a Crown. And in the 23*d. chap.* of *Deuteron.* the 2*d. verſe* is ſaid, *a Baſtard ſhall not enter into the Congregation of the Lord; even to his Tenth generation ſhall he not enter into the Congregation of the Lord.* And 10. *H.* 7. 18. it is ſaid, that *Rex eſt perſona mixta cum ſacerdote, quia tam Eccleſiaſticam, quam temporalem habet juriſdictionem*, The King is a perſon mixt or participating with the Prieſt in the Prieſthood, becauſe he is ſaid to have Eccleſiaſtical Juriſdiction, as well as Temporal. And Sir *John Forteſcue*, Fol. 95. *a. b.* ſaith, that it is convenient, that Mans Law in the benefit of Succeſſion ſhould cut them ſhort; whom the Church judgeth unworthy to be received into Holy Orders; yea, whom Holy Scripture judgeth (as touching their Birthright) inferior to the Legitimate, or Lawfully Begotten; as we read (in the 25*th. chap.* of *Gen.* 5, and 6*th. verſes*) *Abraham* gave all his Inheritance to his Son *Iſaac*; and to the Sons of his Concubines he gave Gifts. And again in Mr. *Swinb.* part 5*th.* Fol. 17. is ſaid, A King may (*ex plenitudine poteſtatis*) make his unlawful Iſſue capable of whatſoever by Will deviſeable he doth give or bequeath unto him. But Mr. *Plowden* ſaith, 247. *a. b.* It is an evil or unlawful thing to Diſinherit the Right Heir. And Mr. *Swinb.* in his 2*d.* part, Fol. 118. ſaith, that by the Civil, Canon, and Common Laws alſo of this Realm of *England*; It is unlawful for a King to give away his Kingdom from his Lawful Heirs. However, we had lately a Houſe of Commons, or rather a Major part of them, that had framed a Bill for the Excluding and Diſabling the then moſt Illuſtrious Prince *James* Duke of *York*, now King *James* the Second, for ever, from Poſſeſſing, Having, Holding, Inheriting, and Enjoying of the Imperial Crowns of this Realm and Kingdoms. It was a Preſumptuous Bill for the Excluding of the Preſumptive Heir of theſe Crowns. However, it was refuſed by the Lords Houſe, and ſo could not be offered to his late Majeſty, for his Royal Aſſent to make it a Law.

Have me excuſed for ſaying it was a Preſumptuous Bill; Matters of that nature have been in times paſt eſteemed ſo; in 35°. *Eliz.* Mr. *Peter Wentworth*, and Sir *Henry Bromley*, delivered a Petition to the Lord Keeper, deſiring the Lords of the Upper Houſe, to be ſuppliants with them of the Lower Houſe unto her Majeſty, for entailing the Succeſſion of the Crown, whereof a Bill was ready drawn: the Queen was highly diſpleaſed herewith, and charged her Council to call the Parties before them; ſo Sir *Thomas Heneage* was ſent to fetch them, they were firſt commanded to forbear going to the Houſe, and not to go out of their ſeveral Lodgings, afterwards they were called before the Lord Treaſurer, the Lord *Buckhurſt*, and Sir *Thomas Heneage*; *Went-*

worth

worth was Committed to the *Tower*, *Bromley* to the *Fleet*, together with Mr. *Stevens*, as alſo Mr. *Welch* Knight for *Worceſter-ſhire*; and yet it was then thought no Breach of Priviledge. They that meddle with this matter of the Succeſſion to the Crown, do not only trench upon the Power and Priviledge of Almighty God, who (as the Prophet *Daniel* tells us in his 4*th. chap.*) is the moſt High that Ruleth in the Kingdom of Men, and giveth it to whomſoever he will; but alſo we have found by woful experience, that they Prævaricate with the King himſelf, for in the very word (King) is included all Succeſſion; ſo that where a Guift is made to the King, a Fee-ſimple paſſeth without the words (either of Heirs or Succeſſors or both) as may be ſeen *C. Inſt.* 1. part 9. *b.* and in the ſame Book, Fol. 22. *b.* is ſaid, a Man cannot have an Heir during his Life, for *non eſt hæres viventis.* And Mr. *Plowden* 45. *b.* ſaith, no Heir hath Right or Title till after the Death of his Anceſtor, that hath the Inheritance (be the Heir either Lineal or Collateral) and not in his Life: and this is, becauſe let all the proviſion imaginable by Man, nay by a Parliament be appointed; yet the ſame, by the death of the Preſumptive Heir, or Heir apparent in the Life time of the Anceſtor, by the Act of God, not otherwiſe may, and can be diſappointed. And Anciently, and now alſo, (as in *C.* 8. 28.) it is held, That *Princeps coruſcat radiis Regis, & cenſetur una perſona cum Rege*, the Prince is enlightned and made ſplendid by the ſhining brightneſs of the King, and is eſteemed to be one and the ſame Perſon with the King. And as in *Bracton* cited by *Stanf.* 99. *b.* Since *nihil aliud poteſt Rex in terris* (*cum ſit Dei Miniſter & Vicarius*) *quam quod de jure poteſt, ita quod poteſtas juris, ſua eſt, non injuriæ, &c*, becauſe the King (as he is Gods Miniſter and Vicegerent) can do nothing upon the Earth, but what he may do by Law, ſo that the Power of Equity and Juſtice, not of injury, and Injuſtice, is properly ſaid to be his Power. Therefore his late Sacred Majeſty, (not being minded to Calm the Stormes of ſome diſcontented Spirits, by ſtirring up a Tempeſt in his own Boſom) was pleaſed (at the opening of the late Parliament at *Weſtminſter*,) to ſignifie to the Two Houſes, that he deſired them to preſerve the Succeſſion of the Crown in the right Line, and withall intimated to them, that he would give his Royal Aſſent to any Laws they ſhould deviſe or make for the Security of the Proteſtant Religion, as it is now Eſtabliſhed by Law in the Church of *England*, or to that Effect; but we are living in *fæce ſeculi*, in the very Dregs, and the very laſt and worſt of Days; we are Jealous again of our own ſhadows, nay we miſtruſt Gods Providence and Protection; and the Kingdom again is like to be ruined by ſecret Plots and Machinations. We have for many years (by the wonderful Providence of God) been delivered from the Slavery and Superſtition of Popery. And yet nothing is now more feared, than the Introduction and Publick ex-

erciſo of Popery again in theſe Kingdoms. Although as King *James* the Firſt the Royal Grandfather of our gracious Soveraign Lord King *James* the Second, in his firſt Speech to his firſt Parliament, next after his Advent to the Crowns of *England* and *Ireland*, did declare that it was then our happineſs, that our Head (meaning himſelf) was of the ſame Religion, that the Body was of! and that as he was no ſtranger to us in Blood, no more was he a ſtranger to us in Faith, or in the matters concerning the Houſe of God; ſo likewiſe his Sacred Majeſty (whom God long preſerve) in his firſt Speech to his Privy Counſel, next after his firſt Advent to the Crowns of *Great Brittain* and *Ireland*, hath been Graciouſly Pleaſed to Declare, that he will do his utmoſt endeavours to Preſerve and Defend the Government in Church and State, as it is now Eſtabliſhed by Law in his ſeveral Realms and Dominions. And beſides divers other undeniable Arguments might demonſtrate, that his late Sacred Majeſty, or his dear Royal Brother, now King *James* the Second, never intended in their Imaginations the leaſt thought to make any alteration of the Proteſtant Religion (as it is Eſtabliſhed by Law) in the Church of *England*; that further happy alliance of Marriage contracted and Conſummated between the Eldeſt Daughter of his Royal Majeſty and the moſt Illuſtrious Prince of *Orange*; And a later Marriage contracted alſo and Conſummated between his Younger Daughter, and the moſt Illuſtrious Prince *George* of *Denmark*; moſt clearly confirms the reality of their intentions herein: by which Nuptial engagements, it appears further, that their joint endeavours have been, not only to defend, uphold, and maintain a bare profeſſion thereof in theſe his Majeſties Dominions, but alſo to enlarge and corroborate it abroad, as much as lyeth in their Power. Do we not know, that when a Proteſtant Prince is to intermarry with a Forreign Princeſs of the Catholick Religion, what great care and proviſion is made by the Parents or Friends on either ſide, by Articles made, and confirmed by ſome Miniſters of State, equally choſen and impowered for the purpoſe of her having a ſet number of Prieſts, and other Miniſters and Servants of her Judgment and Profeſſion; for the due Adminiſtration and Execution only of ſuch Rites and Ceremonies, as are proper for her having and enjoying that Freedom and Liberty that is agreeable to the Rule of her Conſcience, in that Religion wherein ſhe hath been born and educated? And (I pray) in the time of his late Sacred Majeſty (by whom the true Proteſtant Religion was profeſſed, that by Law is Eſtabliſhed) why might not ſome wholeſome Law or Laws have been made by the great Council the Parliament, for the prevention of the extirpation of the Proteſtant Religion, and the ſetting aſide thoſe Idle and Aiery Jealouſies of the Maſſacre of the true profeſſors thereof after his Demiſe or Death? But alas! I fear I am miſtaken in, or do not put the queſtion right; there are

divers

divers Sects, and not Religions, such as are called *Presbyterians*, *Anabaptists*, *Independents*, *Quakers*, and I know not how many sorts of *Novelists* amongst us, (that had not only their Birth and Production, but also their full growth in the late times of Usurpation and Rebellion) who (though they differ in judgment amongst themselves) yet in this (as formerly) they are all still agreeing that if they had but the opportunity, they would all shake hands, and join together in being against the Kings Supremacy in Church and State, as much, if not more, than the *Papists*. For these several sorts of Sects, do not so much differ from us in points of Religion, as in their confused form of Policy and Parity, being ever discontented with the present Government, and are impatient to suffer any Superiority, which maketh these Sects unable to be suffered in any well governed State or Kingdom. But if we take into serious consideration, that it is above Forty years since the late times of Rebellion, and that every Individual person now living, and that hath since attained to the Age of Fifty years, or thereabouts, were then Children, and had not the discretion to discern or put a difference between good and evil, if we consider the great changes, and mighty revolutions, the Metamorphosis, and Transposition of all things, in point of Government then; and afterwards in time, till his late sacred Majesties most happy Restauration; then all these Sects or most of them, I hope, will be ready to conclude with me, that they did not, nor could know better because that in their Youth, in stead of better, and more wholsome nutriment, they sucked in, were nursed, and educated in those bad times upon Venomous and Rebellious Principles.

Quo semel est imbuta recens, servabit odorem Horace.
Testa, diu, &c.

Accordingly, what Children have been instructed or Grammard in, in their Youth, it is hard for them to leave in their Old or Elder years: some of these several Sects do still retain their first drunken in Liquor, upon a certain shamefacedness to be thought curious, or changeable; others of them (that are more Willful and Obstinate) will not be reformed, because contrary to St. *Pauls* advice, *Rom.* 12. 16. they are wise in their own conceit, and will not be informed.

Chap. XI.

Sheweth that Ignorance of the Law will excuſe none, and that therefore all Diſſenters to the Government in Church and State, are adviſed to Conformity.

IT is horrible, that St. *Paul* ſaith, *they that reſiſt ſhall receive to themſelves Damnation*, Rom. 13. 2. I pitty them therefore, and wiſh charitably their convertion. I do not Condemn, yet can do no leſs than ſhew them their Peril. Ignorance of the Law excuſeth not, but it be invincible, (that is to ſay) they have done that in them is, to know the truth; as to counſel with Learned Men, and to ask them what the Law is in that behalf, and if they anſwer them, that they may do this or that Lawfully; however they may thereby be excuſed in Conſcience, yet in Mans Law (ſaith St. *Fermin Dr.* and *Stud.* 46. *a.*) they are not thereby diſcharged, but they that have taken upon them to have knowledg of the Law: be not excuſe by ignorance of the Law: nay! no more are they that have a Willful Ignorance, and that would rather be Ignorant than to know the Truth, and therefore will not diſpoſe themſelves to be informed, or to ask any Counſel in it; and if it be a thing that is againſt the Law of God, or the Law of reaſon (as the matter of Obedience to the Magiſtrate Supream and Subordinate is) no Man ſhall be excuſed by Ignorance. And the ſame Author Fol. 146, 148. ſaith, that Ignorance in the Law, though it be invincible, doth not excuſe as to the Law; for every Man is bound at his Peril to take knowledg what the Law of the Realm is, as well the Law made by Statute, as by the Common Law, giving for reaſon, that there is no Statute made in this Realm, but by the Aſſent of the Lords Spiritual and Temporal, and of all the Commons (that is to ſay) by the Knights of the Shire, Citizens, and Burgeſſes, that be choſon by Aſſent of Commons; and every Statute there made, is of as ſtrong Effect in the Law, as if all the Commons were there preſent perſonally at the making thereof: and ſo ſince all were makers of the Statute, the Law preſumeth that all have knowledg of that, that they make, and are bound at their Perils to take knowledge of the Statute that they make: and ſo be all that come after them. And Mr. *Plowden*, Fol. 343. *a.* ſaith, that Ignorance of the Law is not to be preſumed to be in a Subject, and that therefore Ignorance of the Law

Law ſhall excuſe none. Therefore let all of the Sects aforeſaid, who through Curioſity, affectation of Novelties, want of better Education in their Youths, or that they will not yet ſuffer themſelves to be weaned from the good Old Cauſe (as it was called in the late times of Rebellion) let them all make haſt to come over, and joyn with us in the ſame way and Worſhip of God; and let them be more careful how they are for the future Factious, ſtirrers of Sedition, and diſturbers of the Publick Peace. All of all ſorts, have had ample proof of his late Sacred Majeſties gracious Favour, Mercy, and Amneſty ſince his coming: yet ſome good Old Cauſe Men (none will deny but *Walcot* and *Rumbald* were ſuch) and others of Wicked, and Traiterous principles, lately contrived, and Plotted Barbarouſly to Murder his late Gracious Majeſty, and his dear Royal Brother, ſince our Lord the King, and then the moſt Illuſtrious P. *J.* D. of *York*; and inſtead of the beſt Government in the whole Chriſtian World, to have introduced a Hexarchy or a Government by Six; whether joyntly or ſeparately is not much material to enquire. All perſons in general within the Three Kingdoms, are infinitely bound to praiſe God, for the preſervation of the Lives of his late Sacred Majeſty, and his dear Royal Brother our Soveraign Lord; and for the timely diſcovery of their Wicked and Helliſh deſigns and Machinations, that threatned not only the alteration of the Government in Church and State; but alſo then was by deſigned and forethought malice purpoſed, and intended the expence of the Royal, and all Loyal Blood. And (God give us all Grace to be thankful) ſome only that were to have been the Malitious Authors, and inſtigators of its Effuſion; have therefore ſuffered according to Law, and their Wicked and Willful Obſtinacy hath been corrected by the Magiſtrate: and by Gods great Goodneſs and infinite Mercy, his late Sacred Majeſty his dear Royal Brother now King *James* the Second, and the publick Peace of all the Three Kingdoms are preſerved in peace and ſafety; and under his Sacred Majeſty, as under a goodly *Cedar* Tree of full growth, irremovable not to be otherwiſe, or other where, ſet, planted, or ſupplanted, all his Subjects ſit ſecure and are protected.

CHAP.

Chap. XII.

Sheweth that all Subjects owe true Ligeance to their Soveraign, though they never were, or ever ſhall be Sworn to the ſame; and is ſhewed the diverſity between Enemies, and Rebels, then all are adviſed from Rebellion, and is ſhewed that the King hath no Peer, and therefore cannot be judged by his Subjects for his Actions.

I *Llæſa ſit Majeſtas Regis*, let the Majeſty of our King hereafter be free from all hurt and injury, either in our thoughts, words, or deeds. And ſince you have heard, not only *cui, ſed quomodo, debetur Ligeantia*, not only to whom, but alſo in what manner your Ligeance is due unto the Natural Body of our Lord the King, (which is always, at all times, and in all places, accompanied with the Body Politick, and cannot be disjoyned or ſeparated, from the ſame) you are likewiſe to underſtand, that this Ligeance doth not begin by the Oath in the Leet, or elſewhere; and that the Swearing in the Leet, or elſewhere; maketh no denization. For all Subjects owe true Ligeance to their Soveraign, though they never yet were, nor ever ſhall be Sworn in the Leet; only that the King may have an account of his Peoples Frank pledg for their due Obedience, and Subjection within the Precinct of every Leet; the Municipal Laws of this Realm have preſcribed the Order and Form of this Oath of Allegiance to be adminiſtred at or in the Leet. All Subjects are Born under this Natural Ligeance, Aliens and Strangers only are properly ſaid to be *amici*, or *inimici*, to be in League with us, or to be Enemies to us. *Hoſtes ſunt qui nobis; vel quibus, nos bella decernimus; ceteri proditores, prædones, &c.* They are Enemies, againſt whom our King Proclaimeth War, or who Proclaim War againſt our King; all others are Traitors, Rebells, Thieves and Robbers. A Rebel is to be Indicted, but an Enemy is to be put to death by Marſhal-Law. Now as outward Peace is a great Bleſſing, yet is it as far inferior to Peace within, as Civil Wars are more cruel and unnatural than Wars abroad; for avoidance whereof, let all in general refuſe ſo much as to harbour in their thoughts, that deteſtable and long ſince exploded opinion, that levying of War againſt the Command of the King, though his perſon be preſent, is no levying of War againſt the

the King; but the levying of War againſt his Politick Perſon, and Laws, that is the only levying War againſt the King. Admit of this damned Theſis or Poſition, then we are all preſently fellows at Footbal; and *Over* Milk will preſently be as good as *Swaſey* Cream: and whatever gets uppermoſt, will be King. In the time of *Edward* the Second about 400 years ſince, this ſeparation of Soveraignty from the perſon of the King, and manner of abſtracting the Perſon of the King from his Office, was found out by the Two *Spencers*, the Father and the Son; who to cover their Treaſon, invented this damnable opinion, that Homage, and the Oath of Allegiance, were rather by reaſon of the Kings Crown, than his Perſon: upon which (as may be ſeen in *C. 7. 11. a. b.*) were inferred theſe Execrable Conſequences, Firſt, If the King did not demean or behave himſelf well, his Liege People were bound by their Oath to remove him. Secondly, Becauſe the King might not be reformed by ſuit of Law, that ought to be done by aſperty. Thirdly, That his Liege People are bound to govern in aid and default of him. All which deteſtable opinions were then condemned in two Parliaments, the firſt was by an Act made in the time of *Edward* the Second, called *Exilium Hugonis De Spencer*, the Baniſhment of *Hugh Spencer*; the laſt was by an Act made in the Firſt year of *Edward* the Third the firſt Chapter. Let all take notice, that by the Laws of our Realm of *England*, all Power, Soveraignty, Homage, Allegiance, and Subjection is commanded and required, as properly due to the Natural Body of the King. And that therefore it was ſaid by *Glanvil* (who was Chief Juſtice in the time of *Henry* the Second) *Dominus Rex nullum habere poteſt parem, multo minus Superiorem*, Our Lord the King can have no Peer or Equal, much leſs can he have any Superior within his Realms or Dominions. And *Bracton* (*qui ſub Henrico tertio viginti annos ſummi Juſticiarii munere defunctus eſt*, that for Twenty years together was Chief Juſtice in the time of *Henry* the Third) ſaith, that *Omnis quidem ſub Rege, & ipſe ſub nullo, niſi tantum ſub deo*, every Man is under the King, and he is under none but God alone. And *Non poteſt Regi neceſſitatem, aliquis imponere, quod injuriam ſuam corrigat, & amendet; cum ſuperiorem non habeat niſi Deum, & ſatis erit ei ad pœnam quod Dominum expectet ultorem*, nor (ſaith he) can any Man put a neceſſity upon the King to correct and amend his injury, unleſs he will himſelf, ſince he hath no Superior but God; it will be ſufficient puniſhment for him to expect the Lord for his Avenger; neither hath he hereby other Priviledge, than what by God Himſelf is given to Kingly Majeſty (as may be ſeen in the *8th. chap.* of Eccleſiaſtes, 2, 3, and *4th. verſes*) *I Counſel thee to keep the Kings Commandment, and that in regard of the Oath of God: be not haſty to go out of his ſight; ſtand not in an Evil thing, for he doth whatſoever pleaſeth him; and where*

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the word of a King is, there is Power; and who may say unto him, What doest thou? Yet I observe that once heretofore, the Miter may be said Sawcily to have Oretopped the Crown, in the *20th.* year of King *Henry* the Eight, we read in Mr. *Howes* Chronicle Fol. 541. that the Kings Marriage came on to be argued in open Court at the *Black Fryers*; then the King and Queen were Summoned and Ascited to appear; but there may be seen, what the opinion of wise Men in those times was thereupon; which was, that it was a strange sight, and the newest device that ever was read, or heard of before in any Region, Story, or Chronicle, a King and Queen to be constrained by Process compellatory to appear in any Court as Common Persons, within their own Realm and Dominion; to abide the Judgments and Decrees of their own Subjects, being the Royal Diadem and Prerogative thereof. However this was the less wonder then, because the Pope did then send as Legate into *England*, the Cardinal *Campejus*, to debate the Controversie delegated to him, and the Cardinal of *York*, for the publication of the invalidity of the Kings first Marriage; at the instance of the King himself; as may be seen in *Guicciardin*'s History, Fol. 756. But as we may see in *Stanf.* 153. *a.* The King of *England* hath no Peer in his own Land, Realm, or Dominion, and therefore he cannot be Judged, or called to account for his Actions by his People. Nay! it may be there seen, that Parliaments are Assembled for the profit of the King and his People; and the People are Summoned thither by the Kings Writ, *ad consulendum, &c, non ad consedendum solum, multo minus ad supersedendum*, to consult of the certain difficult matters, *&c.* not only there to Sit together, much less to Sit upon their Lord the King in Judgment.

CHAP.

CHAP. XIII.

Sheweth that no Action lyeth againſt the King, but in place thereof Petition muſt be made unto him; and that (due circumſtances obſerved) the Subject ſhall have his remedy againſt the King by way of Petition, as readily as one Subject may recover againſt another Subject by way of Action in any of the Kings Courts: for that all his Majeſties Subordinate Officers are Sworn to do Juſtice between the King and his Subjects, which if they do not, they are Anſwerable for the injury, not the King.

IT is ſaid, C. 11. 72. *a. b.* That the King being the Lieutenant of God, *ſolum hoc non poteſt facere; quod non poteſt injuſte facere,* which is agreeable to a Maxim in our Law, that the King can do no wrong; therefore, as we may ſee in Mr. *Stanford, prer.* 72. *b.* In place of Action againſt the King, (for the dignity of his Perſon) Petition muſt be made unto him in the Chancery, or in Parliament; for no Action did ever lie againſt the King at the Common Law, but the party is driven to his Petition, which is all the remedy the Subject hath, when the King ſeizeth his Lands, or taketh away his Goods from him, having no Title by order of his Laws ſo to do. And this Petition is called a Petition of Right, becauſe of the Right the Subject hath againſt the King, by the Order of his Laws to the thing he ſueth for by Petition. And it may be ſued as well in the Parliament, as out of the Parliament, and if it be ſued in the Parliament, then it may be Enacted and paſſed as an Act of Parliament, or elſe to be Ordered in like manner as a Petition that is ſued out of Parliament: And ſuit by Petition can be to none other than only to the King, for no ſuch ſuit ſhall be made to the Queen, the Conſort of the King, or to the Lord Prince; for theſe Perſonages have no ſuch Prerogative. Further plainly ſhewing and declaring the manner of ſuing by Petition, and where, and in what caſes it lyeth, and where not; and that (due circumſtances obſerved by him that ſueth by Petition) he may afterwards enterplede with the King; and (if cauſe be for the ſame) the Subject ſhall have right done him, and ſhall have reſtitution of that he ſueth for by Petition, as readi-

ly as one Subject may recover againſt another Subject in any of the Kings Courts. For the King of *England* hath all Subordinate Offices in him to grant, but none in him to uſe himſelf; and all his Subordinate Officers, Miniſters of State, and ſuch as do occupy Judicial places, and others, even from thoſe of his Majeſties Privy Counſel, to the Petty Conſtable, at their admittance to their Offices, are Sworn by meet Forms of Religious Atteſtations, or Oaths, for their juſt and upright Execution of the ſame between the King and his Subjects; meaning thereby not only to ſet God before their Eyes (whom by ſuch Oath they call to Witneſs of their promiſe, and call upon for revenge of their falſhood) but alſo they are thereby threatned with temporal peins, provided by the Policy of Chriſtian Laws againſt corrupt dealings; and thereby their minds are ſtrengthened, and they are Armed with Courage againſt the force of humane affections, which otherwiſe might allure or draw them to partiallity, and out of the way of right Judgment and Juſtice. And the King (as is ſaid *Plow.* 231. *b.* neither gives, nor takes, but by matter of Record; and therefore (Livery of Seizin being matter in Deed) the King ought not to do it, for he ought to have a Record for his Acts; therefore the King ſhall neither make Livery, nor take by Livery, and a Subject may not give Lands to the King by Act Executed in his Life time, if not that it be by Deed Enrolled, or other matter of Record. So that ſeeing the King muſt have a Record for his Acts, and that the ſame are had and obtained by his Subordinate Officers, if any thing be done in prejudice of the Subject, his Officers are anſwerable for the ſame, not the King. And alſo *C.* 11. 90. *b.* an Officer or Miniſter of the King may do nothing in diſadvantage of the King, nor of the Subject; by reaſon Publick Officers are at their admittance to their Publick Offices and Imployments Sworn, Well and Lawfully to ſerve the Lord the King, and his People; and that Lawfully they ſhall Counſel the King in his buſineſs, and that they ſhall not Counſel, nor Aſſent to any thing which ſhall turn him in dammage, or diſheriſon by any manner, way, or colour; and that they ſhall do equal Law and Execution of right to all his Subjects, Rich and Poor, without having regard to any Perſon, as may be ſeen in Mr. *Pulton's* Statutes at large, 18*th. Edward* the Third, in the Oath of the Juſtices, and the Oaths of the Clerks of the Chancery, *&c.* And *Stanford* 59. *a.* The King is ſaid to be alwaies preſent in Court, and if the Parties in pleading, or any Jury in their Verdict, diſcloſe matter that entitleth the King, and the Court ſhall adjudge for the King; though that he is not any of the Parties to the Action.

CHAP.

CHAP. XIV.

Sheweth what inconveniencies happen in the Realm of France, *through Regal Government alone, with the Commodities that proceed of the joynt Government Politick and Regal in the Realm of* England. *And all the Community are herein diſſwaded by mutinous and Rebellious practiſes to Diſinfranchiſe themſelves.*

IN Sir *John Davyes rep.* Fol. 40. *b.* it is ſaid that the Kings of *England* have always claimed and had within their Dominions a Monarchy Royal, and not a Monarchy Seignioral, or Tyranny, and that under a Monarchy Royal, the Subjects are Freemen, and have property in their Goods; and Freehold and Inheritance in their Lands: but under a Monarchy Seignioral or Tyranny, they are all as Villains or Slaves, and are Proprietors of nothing, but at the will of their Grand Seignior or Tyrant, as in *Turkey* and *Moſcovy*. But Sir *John Forteſcue*, Fol. 25, *&c.* ſaith, That the King of *England* cannot alter or change the Laws of his Realm at his pleaſure; for that he Governeth his People, not by power only Royal, but alſo Politick, and ſuch King Ruling by Power Royal and Politick, can neither change Laws without the conſent of his Subjects, nor yet charge them with ſtrange impoſitions againſt their Wills, ſo that to Rule the People by Government Politick, is no Yoak not only to the Subject, but to the King himſelf, accordingly within the Realm of *England*, no Man Sojourneth in another Mans Houſe, without the love and leave of the good Man of the ſame Houſe, ſaving in Common Inns, where before his departure he ſhall ſatisfie, and pay for all his charges there; neither ſhall he eſcape unpuniſhed whoſoever he be, that taketh another Mans Goods without the good will of the owner thereof; nether is it unlawful for any Man to provide and ſtore himſelf of Salt, and other Merchandizes and Wares, at his own will and pleaſure, of any Man that ſelleth the ſame; neither doth the King take away any of his Subjects Goods without due ſatisfaction for the ſame; neither doth the King by himſelf, or his Servants and Officers, leavy upon his Subjects, Tallages, Subſedies, or any other burdens, or alter their Laws, without the expreſs conſent and agree-

ment of the whole Realm in his Parliament. So that every Inhabitant of the Realm uſeth and enjoyeth at his pleaſure all the Fruits that his Land or Cattle beareth, with all the Profits and Commodities which by his own Travel, or by the Labour of others, he gaineth by Land or by Water; not hindered by the injury or wrong detainment of any Man, but that he ſhall be allowed reaſonable recompence. So that the People of *England* are plentifully furniſhed with all things, that are requiſite to the accompliſhment of a quiet and wealthy life, according to their Eſtates and Degrees; neither are they ſued in the Law, nor are Arreſted or Impleaded for their Moveables or Poſſeſſions, or Arraigned of any offence Criminal but only before ordinary Judges, where by the Laws of the Land they are juſtly intreated. And theſe are the Fruits which Government Politick and Regal conjoyned doth bear and bring forth. But in the Realm of *France* (where the People are Governed by Regal Power alone) the Villages and Towns are peſtered with the Kings Men at Arms, and their Horſes, ſo that it is hard in any of the great Towns there to get any Lodging; which Men at Arms, though they continue in one Village a Month or Two, do not, nor will pay any thing at all for their own charges, or for the charges of their Horſes, and when they have ſpent all the Victuals, Fuel, and Horſe-meat in one Town, then they go to another Town, waſting the ſame in the like manner, not paying one Penny for any neceſſaries; and thus are all the Villages, and Unwalled Towns of the Land uſed, ſo that there is not the leaſt Village there free from this miſerable Calamity, but that it is Once or Twice every year beggered by this kind of pilling. And the King there ſuffereth no Man to Eat Salt within his Kingdom, except he buyeth it of the King at ſuch price as it pleaſeth him to Aſſeſs: and if any poor Man had rather Eat his Meat freſh, than to buy Salt ſo exceſſively dear, he is immediately compelled to buy ſo much of the Kings Salt at the Kings price as ſhall ſuffice ſo many Perſons as he keepeth in his Houſe. Moreover all the Inhabitants of that Realm, give yearly to the King, the Fourth part of all the Wines that their Grounds beareth, and every Vintner, the Fourth Penny of the price of the Wines that he ſelleth; And beſides all this, every Village and Borough payeth yearly to the King great Summs of Money aſſeſſed upon them, for the Wages of Men at Arms; ſo that the charges of the Kings Army (which is ever very great) is maintained by the poor People of the Villages, Boroughs and Towns of the Realm; and (theſe things not conſidered) other exceeding great Tallages are yearly Aſſeſſed upon every Village of the ſame Realm to the Kings uſe, whereof they are no year releaſed. And the People being with theſe and divers other calamities plagued and oppreſſed, do live in great miſery and thraldom; for there the Princes pleaſure ſtandeth in force of a Law, ſo that by reaſon thereof, their Kings at their pleaſure change

change Laws, make new Laws, Execute Puniſhments, burden their Subjects with charges, and alſo when, and as themſelves liſt, they do determine controverſies of Suitors as pleaſeth them. I have ſhewed you here out of Sir *John Forteſcues* Book *De laudibus legum Angliæ*. (For every ſober Man would judge me, or any other a Mad-man, that ſhould Write of Matters of this nature, without good and warrantable Authority for that is Written) what inconveniencies happen in the Realm of *France* through Regal Government alone, with the Commodities that proceed of the joynt Government Politick and Regal in the Realm of *England*; that being hence inſtructed with the experience of both Laws, we may the better by their effects Judg whether of them we ought rather to chooſe; for that, *Oppoſita juxta ſe poſita magis eluceſcunt*, contraries laid together do the more perfectly appear. It is, and hath been held to be one of the principles of Policy in *France* to keep the Peaſan (which is the Groſs of the People) ſtill indigent and poor, becauſe they are of ſuch a volatil inſtable Nature, that if they were Rich and Fed high, Wealth and Wantonneſs would make them ever and anon to be kicking againſt Government, and crying out for a change. The Old Cavalier now again takes leave to look Backward, and to put this Queſtion to all the Commons of *England* (for it is only to them he directs this his Diſcourſe, he may be taken notice of, not to have preſumed to take upon him, to Adviſe the King or any of his ſeveral Counſels) whether all the People of *England* (comprehended under the notion of the Community, or ſtile or name of the Commons of *England*) have not been for Threeſcore years laſt paſt and upward of as volatil, and inſtable a Nature, as ever the Groſs of the People of *France* are, were, or poſſibly could or can be? I muſt Anſwer in the Affirmative, that the People of *England* in this latter Age have been very changeable, always endeavouring to promote alteration in Church and State; and ſo in the late times of Rebellion, they changed Peace for War, and conſequently all the miſeries and ſad effects thereof were laid open to their Eyes; their Goods were ſpoiled, their Children Slain, their Wives and Daughters Raviſhed, their Cattle driven away, and themſelves made miſerable ſpectators to behold their own unhappineſs; and though what by deſtiny was decreed, Man could not prevent; his late Sacred Majeſty was Miraculouſly reſtored to his Realms and Dominions; yet ſtill (by reaſon of variety of Opinions lodging in various, particular individual Perſons Breaſts, differing amongſt themſelves) the ſubvertion and alteration of the Government (none will deny) hath again been menaced and threatned; and a perſon Good-enough for ſo Wicked an undertaking, was imployed with Letters, Legations and Meſſages, to invite and deſire the Aid and Aſſiſtance of our dear Brethren the *Scots*, Ayming again to have ſubdued all to their own Will and Power; under the Old diſguiſes of Holy Combinations, in the ſame

manner

manner as heretofore, by Solemn League and Covenant, or otherwiſe howſoever. But my good Brethren of all the Community within all his Majeſties Realms and Dominions, ſeeing that as free born Subjects by Birthright, we are Entitled to all thoſe Fruits, and Priviledges, Government Regal and Politick conjoyned beareth, let us take care for the future, that by Mutinous, Diſobedient, and Rebellious practiſes, we do not Frenchifie, and Diſinfranchiſe our ſelves; knowing that he that is free, and voluntarily runneth into Fetters, is a Fool, and whoſoever becometh Captive without conſtraint, may be thought either willful or witleſs.

Chap. XV.

Sheweth how tender this Government Politick and Regal conjoyned is of the ſafety of the Kings Perſon, and of all his Royal Rights and Prerogatives. And that our Law doth not reject Women or Infants in the high point of the Deſcent of the Crown; and that our King holdeth immediately of God to himſelf, and acknowledgeth no Prince on Earth his Superior.

NOW as Government Politick and Regal conjoined is tender of the preſervation of the juſt Rights of the Communalty; and this Communalty without a head can in no wiſe be ſaid to be corporate, ſo in likewiſe we are to underſtand, it is as tender and curious, in the preſervation of the Royal Rights, Priviledges, and Juriſdictions, and Prerogatives of the Chief Head, and Supream Ruler of this Body Myſtical, which is the King, or Queen of theſe Kingdoms. For in this high point of Deſcent of the Crown. Our Law doth not reject Women, tho Women are commonly ſaid to be ſuch, whom Nature hath made to keep home, to nouriſh their Family and Children, and do not meddle with matters abroad, nor are to bear Office in a City or Commonwealth, no more than Children and Infants; yet in ſuch Caſes, wherein the Authority is annexed to the Bloud and Progeny, as in the Deſcent of the Crown; there the Bloud is reſpected, not the Age, nor the Sex: and ſuch a one is called an abſolute Queen, which hath the Name not by being Married to a King, but by being the true, right and next Succeſſor, in the Dignity, and upon whom by Right of Bloud that Title is deſcended. Theſe (I ſay) have the ſame Authority, though they be Women or Children, in theſe our Kingdoms,

doms, Realms, or Dominions, as they ſhould have had, if they had been Men of full Age. For the Right and Honour of the Bloud, and the Quietneſs and Surety of the Realm, is more to be conſidered than either the tender Age, as yet impotent to Rule; or the Sex, not accuſtomed (otherwiſe) to intermeddle with Publick Affairs, being always by common intendment underſtood, that ſuch perſonages never do lack the Counſel of ſuch Grave and Diſcreet Men, as be able to ſupply all other defects. Now we are to underſtand, that our Nation hath not uſed any other general Authority, neither Ariſtocratical, nor Democratical, but only the Imperial Monarchy, or the Royal and Kingly Majeſty; which Anciently and at the very Firſt (as in the time of the Heptarchy) was divided to many and ſundry Kings, each abſolutely Reigning in his Country, none under Subjection of other, till (obſerve) by Fighting one with the other, (the Overcomed always falling to the Augmentation of the Vanquiſher and Overcomer) at laſt the Realm of *England* grew into one Monarchy; neither one of theſe Kings, neither he who firſt or at the laſt had all, took any inveſtiture at the Hands of the Emperor of *Rome*, or of any other Superior or Forreign Prince; but (as may be ſeen in the Statute of 16*th. Rich.* the Second, *chap.* 5*th.*) held immediately of God to himſelf, acknowledging no Prince on Earth his Superior, and ſo we are to take notice, it is kept and holden at this day; and we may ſee that by a Statute made in the 13*th. Car.* 2*di. ca.* 1. That if any during the Life of the King Majeſty, ſhall within the Realm or without, Compaſs or Intend the Death, or Bodily Harm, Impriſonment or Reſtraint of the Perſon of the King, or to Depoſe him from the Kingly Name of the Imperial Crowns of his Realms, or Levy Wars againſt him, or ſtir up any Forreigner to a Forcible Invaſion, and ſuch compaſſings ſhall expreſs by Printing, Writing, Preaching, or Malitious and Adviſed Speeches, and be Convicted thereof upon the Oath of Two credible Witneſſes; every Perſon ſo Offending ſhall be Adjudged to be Traitors, and ſhall loſe and forfeit as in Caſe of High Treaſon. And by the ſame Act it is provided amongſt other things, That if any ſhall affirm the King to be an Heretick, or a Papiſt, or that he intends to introduce Popery, or ſhall Malicioufly and Adviſedly, by Writing, Printing, Preaching, or other Speeches, Publiſh or Declare any word, or other thing or things to ſtir up the People to hatred or diſlike of the Perſon of his Majeſty or Government; every ſuch Perſon thereof convicted, are thereby made uncapable of any Office or Imployment in Church and State, and are made lyable to ſuch Further puniſhments, as by the Laws and Statutes of this Realm are to be inflicted in ſuch Caſes; take notice this Act was made preſently after his late Majeſties moſt happy Reſtauration, when again the Major part, (if not all then Living) of the Secluded Members in the late pretended Parliament without King or Houſe

of

of Lords, were again choſen by the Freeholders of their ſeveral Counties, to come to this long expected and much wiſhed for Free Parliament. It would then have made a true *Engliſh-man* ſmile, to ſee Old Eſq; *Prynne* trudge through *Weſtminſter-hall* to the Houſe of Commons with his Basket, not Silver Hilt Sword by his Side; time was then come that his Eyes were opened, and as a principal Member of that Parliament, he was one of the Framers of that Bill for the forementioned Act; wherein it is further provided, that if any Perſon or Perſons ſhall Maliciouſly, and Adviſedly by Writing, Printing, Preaching, or Speaking, Declare or Affirm, that the Parliament began at *Weſtminſter*, *November* 3. 1640. is not Diſſolved nor Determined; or that it ought to be in being: Or that there lies any Obligation upon him or any other Perſon, from the Oath, Covenant, or Engagement, to endeavour a change of Government; or that both or either Houſes of Parliament have a Legiſlative Power without the King; or words to the ſame effect. Every Perſon ſo Offending ſhall incur the danger and penalty of *Præmunire*, whereof mention is made in the before mentioned Statute of 16*th. Rich.* the Second. I have made mention of this latter clauſe in the ſaid Act the more eſpecially, becauſe thereby all *Interregna*, Kings *de facto*, wicked and injurious Uſurpers are Excluded, and the Body Natural and Politick of our Lawful King are ſo conjoined and cloſed together, that (I hope in God) for the future, it ſhall not lye in the Power of the People by Riſing in Rebellion againſt their Rightful Soveraign Lord, to make any Separation of the Soveraignty from the Perſon of our Lord the King, or to abſtract the Perſon of our King from his Office; to the Ruin, Alteration, or Subvertion again of his Majeſties Realms and Dominions. And I have mentioned the former Clauſes, to give you to underſtand, what care hath been made for the Security and Preſervation of his Majeſties Royal Perſon and Government, as it is freed and ſecured thereby from all Reſtraint, Bodily Harm, or violence whatſoever, by wicked Words, or Deeds.

CHAP.

CHAP. XVI.

Sheweth that all Unlawful Aſſemblies or Meetings for the Plotting of harm to the King, or the Alteration of the Government, are Unlawful, and further ſheweth what Miſpriſion of Treaſon is, and that it is the Duty of every good Subject preſently to diſcover Treaſon.

NOW we are to know, how that we are forbid alſo (by ſundry Laws in force) to Congregate and Aſſociate our ſelves to Unlawful Aſſemblies, or Meetings in Coffee-houſes, or elſewhere; where any diſcontented, ſeduced, wicked Perſons ſhall Aſſemble themſelves together, to Plot, or Contrive Bodily harm to the King, or the Alteration of the Government. If it ſhall be the hard miſhap of any Loyal, and well affected Chriſtian Perſon, to chance to be in ſuch evil Company, let him learn of *Mordecai* the *Jew*, his Duty therein, (as we may ſee in the ſecond *chap.* of the Book of *Eſther*, the 21, 22, 23. *verſes.) while* Mordecai *ſat in the Kings Gate, Two of the Kings Chamberlaines,* Bigthana *and* Tereſh, *of thoſe which kept the Door, were wroth, and ſought to lay hands on the King* Ahaſuerus; *and the thing was known to* Mordecai, *who told it unto* Eſther *the Queen, and* Eſther *certified the King thereof in* Mordecai's *Name*; *and when inquiſition was made of the matter, it was found out, therefore they were both Hanged on a Tree: and it was Written in the Book of the Chronicles before the King.* And *Ahaſuerus* afterwards reading in the Chronicles of the good ſervice done by *Mordechai*, took care for his reward, as may be ſeen in the ſixth *chap.* of the ſaid Book of *Eſther*. And we may ſee in *Stanf.* 37. *b.* when one knoweth that another hath done Treaſon, or Fellony, and he will not him diſcover to the King, or his Counſel, or to ſome Magiſtrate, but concealeth his Offence, that is Miſpriſion; which Offence, *Bracton* placeth amongſt the Offences of Treaſon, becauſe he was of opinion, that concealment beyond a certain time, ſhall make it a-

mount rather to Treason than to Misprision: for that purpose he saith: *Statim, & sine aliquo intervallo, &c.* that presently and without any stop, pause, or giving over for a time, he ought to go to the King himself, if he may, or otherwise to some of his Secretaries of State, or some Magistrate, and to discover the whole matter in orderly manner: that he ought not to stay Two days or nights in one place before he sees the King; nor to be let or hindred by any business, though never so urgent: *quia vix ei permittitur, ut retrospiciat*, because the Law giveth him not so much time, as to look back; in some Cases, as we must render an account for every idle word, so must we likewise in this case, for our idle silence; for in such a Case as this, where any knoweth of any Conspiracy against his King or Country, he is bound by the Laws and Statutes of this Realm, presently to discover it; for as Fire in its beginning, whilst it is but small, is more easily quenched than it is afterwards, when by some continuance it hath gathered strength; so the beginning of Rebellious contrivances, being known and discovered, with more ease the sad events, and evil consequences thereof are nipped in the Bud, and are smothered hindred and prevented: therefore as to this Evil, or rather Devil of Rebellion, all are to be advised by the Poet, who saith;

Principiis obsta: sero medicina paratur,
Cum mala per longas invaluere moras.

CHAP.

CHAP. XVII.

Sheweth that all Writs, Proceſs, Executions and Commandments, are and ought to be in the Kings Name only.

NOW I ſhall acquaint you further, that all Writs, Executions, and Commandments are done in the Kings Name. Nay! we do ſay in *England*, the Life and Member of the Kings Subject are the Kings only (that is to ſay) no Man hath hault or moyenne Juſtice but the King, nor can hold plea thereof. Hence it is, that thoſe Pleas which touch the Life or Mutilation of Man, be called Pleas of the Crown; nor can be done in the Name of any inferior Perſon than he or ſhe, that holdeth the Crown of *England*. And all Enditements, Preſentments, and Proceſſes relating to the Seſſions of the Peace begin with *Juratores preſentant pro Domino Rege quod I. S. de, &c.* or *Inquiratur pro Domino Rege ſi A. B. de, &c.* And every warrant from a Juſtice of the Peace upon all occaſions whatſoever, directed to the Conſtable, begin with theſe or ſuch like words, theſe are in his Majeſties Name to Will and Require you forthwith, *&c.* If any Proceſs, Summons, Invitation, or Commandment come to you, in Parliament time, or out of Parliament time, in any other Habit, Dreſs, or Name whatſoever. Be you aſſured, ſuch Coin is counterfeit, and not currant within his Majeſties Realms and Dominions; but are deceitful and deluſory, and may not improperly be likened to the Melody of *Syrens*, who Sing, not to ſtir up Mirth, but to allure unto danger and miſhaps.

CHAP. XVIII.

All Freeholders are adviſed as to what manner of Perſons they are, or ought to Chooſe for future Parliaments.

I Remember, I made mention of the Secluded Members in the late times of Rebellion, Theſe were they with whom Treaſon had no place, becauſe with them, Obedience to their Soveraign Lord the King and his Laws Eccleſiaſtical and Temporal bore ſway, and held Principallity: ſome of whom (when the confluence and Clamours of the Tumults in thoſe times paſſed all boundaries of Laws and Reverence to Authority, by the rude and unſeemly deportments both in contemptuous words and actions of the vulgar, and that no means prevailed for their ſuppreſſion) withdrew themſelves with his Sacred Majeſty King *Charles* the Firſt, for the ſecurity of their Perſons from Violence; others of them (when the Lords were Excluded and the Houſe of Commons was purged by the Military power to a Rump Parliament,) for rotten Members (as they then termed them) were caſt out, and all of them (that were afterwards living) were again choſen for Parliament-men upon his late Majeſties moſt miraculous and happy Reſtauration. Many of them held their King and Country, and the Government thereof ſo dear, that in defence thereof, they feared not to hazard their lives and Fortunes. Such as theſe were, (Men Fearing God, Honouring their King, and abhorring to meddle or joyn with thoſe that are given to change) I adviſe every Freeholder (who hath a voice in the Election of Knights, Citizens, and Burgeſſes) ſhould Chooſe and Elect to ſit in Parliament for the future, when his Majeſty ſhall be pleaſed to Iſſue forth his Royal Writs for the ſame. If you know of any that have offended grievouſly in former Parliaments, Elect them not again, upon an expected repentance. (All jealouſies and fears laid aſide) Elect ſuch as are Men of good Fortunes, not ſuch as have their fortunes to make; ſuch as are Wiſe and prudent Men in the management of their own private Affairs at home; and in their ſeveral Countries make a right and good uſe of thoſe benefits which God hath put into their hands, for their ſuccouring of others, their

their poor Tennants and Neighbours, whoſe vertue is yet altogether joyned with that Juſtice, that is prudently guided with Moderation and reaſon; for they that know well how to manage their own private Affairs (when called thereto) will in all probability, as carefully contribute their prudent and hearty endeavours for the preſervation of the Publick Peace, and welfare of the whole Community. Let not Elections be carryed on (as heretofore) with partiality and popular heat, let the Gravity and diſcretion of the more ſober, and better educated Gentry, allay and fix the Commons to a due temperament, guiding ſome Mens well meaning Zeal by ſuch Rules of Moderation, as are beſt both to preſerve, and reſtore the health, and welfare of all States and Kingdoms. Every Freeholder ought to know, and well to conſider with what power he truſts thoſe whom he chooſeth, in regard the Power of the Houſe of Commons is derived from that truſt: and the Kings Writ directed to the Sheriff, gives Authority to the Freeholders to make their Elections; in which is expreſſed, not only the Sheriffs Duty in point of Summoning; but the Writ alſo contains the Duty and Power of ſuch Knights and Burgeſſes as ſhall be Elected, and ſuch as ſhall be Elected, are to know, that as a Body Natural cannot do any perfect Act if it be diſmembred (*viz.*) if the Head be in one place, and the Body in another place, and ſo of the reſt of the Members of a Body Natural: ſo it is in like wiſe of the Parliament; which may be ſaid by the Power of the King to be made corporate, or the higheſt Court aggregate and conſiſting of the King or Queen of *England*, the Lords Spiritual and Temporal, and the Commons in Parliament Aſſembled; the Members whereof are or ought to know that they are *Capitulariter*, or rather *ſub uno capite congregati*, Chapterwiſe, or rather Aſſembled under one Head, which is the King or Queen thereof; who have the only Power, Priviledge, and Prerogative not only of Summoning, but alſo of Adjourning, Proroguing, and Diſſolving of the Parliament; as alſo of Paſſing, or not Paſſing any Bills whatſoever framed for Acts at their own Wills and Pleaſures. There is no Government more reſembling Heaven, or more durable on Earth, or that hath any certain principles, but Monarchy, and ſuch a Monarchy, that hath an actual viſible military ſtrength to ſupport it ſelf, not only to protect the Good and Loyal, but alſo to awe the Bad and Rebellious People. The King repreſents God, the Houſes of Parliament the People. And (as in ſome ſort is expreſſed before) the King by his Writ gives the very eſſence and form to his Parliament, being the production of his breath; therefore Priviledges which are the conſequences of the Form, muſt neceſſarily flow from him. Now would you know how to Elect Men Fearing God, Honouring the King, and ſuch as will not meddle with thoſe that are given to change? Know and take

notice,

notice, that true Religion is the well tempered Mortar, that buildeth up all Eſtates: that there can be no true Religion where the word of God is wanting or not duly obſerved. I have proved from, and made it plain to you, that the word of God condemneth and prohibiteth all mutinous Rebellious Actions whatſoever againſt the Magiſtrate either Supream or Subordinate. And becauſe there can be no ſurer ſign of the ruine of a Kingdom, than the contempt of Religion. My Advice is to all, that they would Conform, but as to ſuch that will not Conform, nor be Reformed, nor adviſed to joyn with us in the way Eſtabliſhed by Law for the Service and Worſhip of God, becauſe they are either ſtubborn, obſtinate, or wiſe in their own conceits, and will not be informed, ſuch as theſe, that are Diſſenters from us, in the better half of the Government; (that is to ſay) in the Government of the Church. I pray that (as they abſent themſelves from us in the Divine Service and Worſhip of God) ſo they would be pleaſed to abſent and ſeparate themſelves from the publick meetings in their ſeveral Counties for the Chooſing and Electing of Members to ſit in Parliament for the future, for as the Veſſel ſavoureth of the ſame Liquor, wherewith it was firſt ſeaſoned; ſo (it is to be feared) the mind of theſe Diſſenters ſtill retaineth thoſe very qualities in their Elder Age, wherein it was trained up in Youth. However by their abſence, their miſguided Conſciences will be clear, and the more Loyal and conformable Subjects by their ſo doing, will be leſs offended and diſturbed in their choiſe and Election of ſuch as themſelves, that may better comply (than heretofore) they did with his late Sacred Majeſty in making and conſtituting ſuch wholeſome Laws and Proviſions, as may make for the ſecurity and preſervation of our Proteſtant Religion, which is confirmed by Scripture, and Hiſtory of Ancient Fathers in the Primitive Church, to be agreeing in Doctrine, and Diſcipline, with the truly Ancient Catholick and Apoſtolick Chriſtian Religion and Profeſſion (as it is now Eſtabliſhed by Law) in the Church of *England.*

CHAP.

CHAP. XIX.

Sheweth that the King of England *is, and always hath been, Supream Head of the Church, not the Pope.*

FOR we are to know and underſtand that the King of *England* is in all Cauſes, as well Eccleſiaſtical as Temporal, within theſe his Majeſties Realms and Dominions Supream Head and Governour. By the Ancient Law of the Realm, the King hath power to viſit reform and correct all Abuſes and Enormities in the Church, and by the Statutes made in the time of King *Henry* the Eighth, the Crown was but remitted and reſtored to its Ancient juriſdiction, which was Uſurped by the Biſhop of *Rome*. *Reges ſacro oleo uncti, ſpiritualis juriſdictionis ſunt capaces*, Kings Anointed with Holy Oyl, are capable of Spiritual Juriſdiction. And 10. *H.* 7. 18. *Rex eſt perſona mixta cum ſacerdote*, the King is ſaid to be a Perſon mixt or participating with the Prieſt in the Prieſthood. Alſo the King ſhall have Tythes by the Common Law, of which no Lay Perſon can be capable. And the King by himſelf, or by his Commiſſioners, ſhall viſit his free Chappels and Hoſpitals. And by the Cannon Law, *Omnes Reges dicuntur Clerici*, and another Text thereof ſaith, *quod cauſa Spiritualis committi poteſt Principi laico*. All Kings are ſaid to be Clarks, and that however a Spiritual Cauſe may be determined by a Lay Prince, as may be ſeen in *Davyes rep.* 4. *a.* And although the proceedings in the Eccleſiaſtical Courts be in the Name of the Biſhop, yet they are the Courts and Law of the King: as the Leet, though it be holden in the Name of the Lord of the Manour, yet it is the Court of the King. *C.* 5. 1. part 39. *b.* The Canoniſts aſcribe to the Pope, Prerogative as to the Interpretation of Laws, and granting of Diſpenſations, but the juriſdiction, that the Pope by Colour thereof claimed in *England*, was a meer Uſurpation to which the Kings of *England* (as I ſhall preſently ſhew you) from time to time made oppoſition even to the time of King *Henry* the Eighth. And the King of *England* not the Pope, before the making the Statute of Faculties, might *de jure*, of right diſpence with the Eccleſiaſtical Law: for though that many of our Eccleſiaſtical Laws were firſt deviſed in the Court of *Rome*, yet being eſtabliſhed and confirmed in this Realm

Realm by acceptance and uſage, they are now become *Engliſh* Laws; and are no more to be reputed *Romiſh* Cannons, and they are to be obſerved as the Laws of the Kingdom of *England*, and not to be eſteemed or reputed as Rules of the Pope, *Davyes rep.* 71, 72. And the King is Supream Patron as King, and not as in reſpect of the Supream Juriſdiction that the Realm by the Statute hath acknowledged in him. Therefore a Reſignation to the King of a Deanry, is as good as if it had been made to the Biſhop, becauſe that by the Common Law he is the Supream Head of the Church of *England*, and the Deanry is void by it. And the King ſhall be made privy, and ſhall give his conſent to every Appropriation, where the Church is of the Patronage of another, as well as where it is of his own Patronage, *Plowd.* 498, 499. And it appeareth by *Doctor* and *Student* 124, 125. That the Law hath appointed Six Months unto the Patron to preſent his Clark unto the Biſhop, but if the Patron do not preſent his Clark unto the Biſhop within Six Months next after the Church ſhall become void, then ſhall the Lapſe incur to the Biſhop, and he ſhall preſent for the default of the Patron a Clark of his own chooſing, and his preſentation is called Collation; and if the Biſhop or Ordinary ſurceaſe his time, and ſhall not Collate within the Six Months, then ſhall the Metropolitan (the Archbiſhop of the Province) Collate his Clark, and if he do not Collate within other Six Months; then ſhall the Kings Majeſty (not the Pope) as Supream Ordinary of all the Benefices in *England*, preſent his Clark to the Church. And all the Archbiſhopricks, and Biſhopricks within the Realm of *England*, are of the Kings foundation, and the Kings of *England* are the Founders of them all; and they ſit in Parliament, and have the Names of the Lords of the Parliament, *non ratione Nobilitatis, ſed ratione Officii*, not by reaſon of their Nobility, but by reaſon of their Office, and in reſpect of their Ancient Barronies annexed to their dignities. *C. Inſt.* 1. part 97. *a.* And in *C.* 5. 1. part *Cawdreyes* Caſe, it may be ſeen, That King *Kenulphus* by Charter in Parliament in the year of our Lord 755. Exempted the Abbot of *Abingdon* from Epiſcopal Juriſdiction, and gave it him. That amongſt the Laws of *Edward* the Confeſſor, it was Ordained, that he ſhould Govern the Kingdom and his People; and above all the Holy Church, not the Pope. That *William* the Conqueror Appropriated Churches with Cure. That King *Henry* the Firſt preſented to Abbeys, as well by his Eccleſiaſtical, as his Kingly Power. That *Henry* the Third granted Prohibitions, and in Iſſue of Loyalty of Marriage, and general Baſtardy, the King wrote to the Biſhop as his immediate Officer. That in the time of *Edward* the Third, the Temporalties of the Archbiſhop of *York* were loſt during his Life, for refuſal of a Clark of the

King

King, by reaſon of a Proviſion of the Pope. That by 25. *Edw.* the Third, a Man might kill thoſe that procured Proviſions from *Rome*, and thoſe that executed them. Alſo by 25. *Edw.* 3*d.* It was Enacted, that the Pope ſhall not give Archbiſhopricks, Biſhopricks, *&c.* but that the King them ſhall give, *&c.* That by 16. *Richard* the Second, *chap.* 5*th.* It is Enacted, that (becauſe the King holdeth his Crown immediately under God) they who purchaſe or purſue in the Court of *Rome*, Tranſlations, Proceſſes, Excommunications, Bulls, Inſtruments, *&c.* and their Fautors and Councillors, ſhall be out of the Protection of the King, and *Præmunire facias* ſhall be awarded againſt them. That 2. *H.* 4. 9. It is reſolved, that Collectors of the Pope by their Bulls have not any Juriſdiction here, and that the Archbiſhops, and Biſhops are called the Spiritual Judges of the King. And 11. *H.* 4. 37. it is ſaid, *Papa non poteſt mutare leges Angliæ*, that the Pope cannot change or alter the Laws of *England.* That 2. *Henry* the Fourth, *chap.* 3*d.* he that obtaineth from the Biſhop of *Rome* to be exempt from regular Obedience, is within the Caſe of a *Præmunire.* That 6. *H.* 4. *chap.* 1. Forfeiture was impoſed upon thoſe who payed great ſums to the Chamber of *Rome.* That by 2. *H.* 5. *chap.* 1. The King, not the Pope, gave power to the Ordinary to enquire of the Foundation and Government of Hoſpitals, and to correct, *&c.* That in 9. *H.* 6. 16. The King only can give Licenſe for the Foundation of a Corporation Spiritual, not the Pope. That 12*th. Edw.* 4*th.* 16. A Legate of the Pope was compelled to Swear that he would not attempt any thing againſt the Crown, *&c.* That in 2. *Rich.* 3. It is ſaid, that Excommunication or Judgment at *Rome* is of no force here. That in Firſt *Henry* the 7*th.* 10*th.* It is ſaid, that in time of King *Henry* the Sixth, *Humphry Duke* of *Gloceſter* burnt the Letters of the Pope, that were in Derogation of the King, and his Crown. And 1. *H.* 7. 20. It is adjudged, that the Pope may not grant Sanctuary. And 25. *Henry* the 8. *chap.* 21. It is Enacted by the Statute forementioned of faculties, that none ſhall make ſuit to *Rome*, but that the Archbiſhop of *Canterbury* may grant to the King and his Subjects, ſuch Licenſes, Diſpenſations, Grants, Faculties, Eſcripts, Delegacies, Inſtruments, *&c.* not repugnant to Holy Scripture, as been uſed to be granted by the Pope, yet it is to be noted, that ſuch Cannons, Conſtitutions, Ordinances, Synods, Provincials, *&c.* were provided to be in force, which had been allowed by general Conſent, and Cuſtom within the Realm, not repugnant to Law, or the Prerogative of the King, and ſo by the ſame general Conſent may be Corrected, Enlarged, Explained, or Abrogated; hence we may reſt ſatisfied, that for many Hundreds of years laſt paſt (ſucceſſively) in the time of one King after another King (when all our Anceſtors were Papiſts and of that profeſſion) that yet the Government of the Church ever was inherent to the Imperial Crown of the Kings of *England.* In the time of King *Henry*

the Third, the Uſurped Juriſdiction of the Pope was elevated more high, than ever before, or ſince, yet it may be obſerved, that in the Ninth year of his Reign, in the very firſt Chapter of the great Charter, Entitled and Called, The Confirmation of Liberties, is mentioned, Firſt, We have granted to God, and by this our preſent Charter have confirmed for Us and Our Heirs for ever; that the Church of *England* ſhall be free, and ſhall have all her whole Rights and Liberties inviolable. And by the Statute of 24. *H.* 8. *chap.* 12. by 24 Biſhops, and 29 Abbots, it is recited that *England* is an Empire, and that the King is the Head of the Body Politick, conſiſting of the Temporalty, and the Spiritualty impleet and furniſhed with full Power to render final Juſtice in all matters whatſoever, as well Eccleſiaſtical as Temporal. And that part of the ſaid Body Politick, called the Spiritualty, hath been always thought ſufficient, and meet of it ſelf, without the intermeddling of any Forreign Pope, or any exterior Perſon or Perſons (when any cauſe of the Law Divine happened to come in queſtion, or of Spiritual Learning) to declare and determine all ſuch doubts, and to adminſter all ſuch Offices and Duties (yet as the Spiritual Judges of and under the King) as to their ſeveral Roomes Spiritual doth appertain. And the Laws Temporal for Trial of Property of Lands and Goods, and for the conſervation of the Realm in Unity, and Peace, without Rapine or Spoil, were, and yet are Adminiſtred, Adjudged, and Executed by ſundry Judges, and Miniſters of the other part of the Body Politick called the Temporalty. And their Authorities and Juriſdictions do conjoyn together in the due Adminiſtration of Juſtice, the one is a help to the other; and both are a help to, and in eaſe of the King the Head of this Body Politick; here you have conciſely and in few words diſcovered unto you, the Ancient form of the Government of *England* both in Church and State, and accordingly in Ancient times, the Parliaments of *England* conſiſted only of the King, the Lords Spiritual, and the Lords Temporal, who were Anciently the Repreſentatives of the whole Kingdom in Parliament Aſſembled under the Kings or Queens thereof; but for ſome Hundreds of years laſt paſt, a Writ hath been framed for the Election of Knights, *&c.* to ſit in Parliament, and theſe Knights, *&c.* are to be choſen by the Freeholders in their ſeveral Counties.

CHAP.

CHAP. XX.

As to the Kings Supremacy is ſhewed the difference between the Primitive and more modern times, herein the Author adviſeth all to be at Unity within themſelves, and ſince we are reſtored to our Ancient Government, to give to our Soveraign Lord the King his Dues; and deſires all to joyn with him (in the Concluſive Prayer, for the Morning Service in our Church Liturgy) for the King.

NOW ſince, as the living Members of a Body natural united together, maintain life; ſo it is in a Kingdom, by concord of the People, the ſtate thereof is maintained, but by their diſcord it is deſtroyed. And accordingly Holy Scripture tells us, that Houſes or Kingdoms divided within themſelves cannot ſtand, but true Peace is the quiet and tranquility of Kingdoms, burying all Seditions, Tumults, Uproares and Factions, and planting Eaſe, Quietneſs and Security with all other flouriſhing Ornaments of Happineſs. Now would you be happy, and would you have your Poſterity happy alſo? Pray to God (as you are directed by the Prophet *Jeremiah* in 32. *chap.* and the 39*th. verſe*) that he would give you one Heart, and one Way, that you may fear God for ever, for the good of you, and of your Children after you. Labour therefore to be at unity within your ſelves; and above all, be adviſed, that when you again ſhall have a Lawful call to Elect Members for a ſubſequent Parliament, you be ſure unanimouſly to chooſe ſuch Men as are Men well affected to the better half of the Government (that is Eſtabliſhed by Law) in the Church. For *nunquam bene res ſuccedunt humanæ, ubi negliguntur divinæ*, things Temporal and Humane, never ſucceed well, where things Spiritual and Divine are neglected. Subjection is required by St. *Peter* (where before cited) to the King as Supream; and with me be pleaſed to conſider the Authority of the words too (and marking the difference between the Primitive, and more Modern times, you ſhall not need to fear the intro-

duction of Popery again in these Kingdoms) who writes them? Observe, they come from St. *Peter*, from whom the Successors of St. *Peter* derive their Title of Supremacy above Kings. So that howsoever they will have the Authority Entailed upon them from St. *Peter*; yet St. *Peter* himself challengeth no such Supremacy, for he says, To the King (mark the Epethite) as Supream; 'tis true, we read that Cardinal *Bellarmine*, and *Boniface* the Eighth, and *Innocent* the Fourth, with others of that Party, being carried on by their Pride and Ambition, maintain the Head of their Church to have both the Swords, and therefore (say they) is above all Kings, and Emperors, that have but one; yet here we see, That in the beginning it was not so: St. *Paul* denies it, St. *Peter* disclaims it, and the Ancient Church, and (according to the practise thereof) all our Kings of *England*, Successively from time to time even to this present time, have disowned it. Remember and never forget, we had heretofore the Minor part of a House of Commons, Exercising the Soveraign Power, the corrupt Majority (as they then termed them) being ejected and cast out for Delinquents, and Malignants. And by them we had the Government Changed, or rather purposed to be changed, regality (it was then death to say the King) and House of Lords were cast of, next this we had nothing Visible, but a General and an Army. Next this we had the whole Constitution, Laws, and Liberties of the Kingdom at once subverted, certain Men being called by the Name of a Parliament, and the Soveraign Power pretended to be given them, that were never chosen by the People, but by we know not whom (such a fact as was never heard, or read, that any King of *England* was Guilty of, since Parliaments were known) Next this we had a Protector Governing by an instrument made by —— God knows who. After this we had the same Protector Governing according to the humble Petition, and Advice (and Sworn to both) And (unto God be thanks for the same) by his late Sacred Majesties happy Restauration, we are also restored again, to our Ancient Government Established by Law both in Church and State, and to the fruits and benefits of the same. Mark therefore what St. *Peter* saith in the 13*th. chap.* to the *Rom.* give to all their Dues, Tribute to whom Tibute is due, Custom to whom Custom, Honour to whom Honour, Fear to whom Fear. St. *Paul* hereby adviseth us to our bounden Duties and due Subjection to the Magistrate Supream and Subordinate. And his advice may be reduced to these Three Heads, 1*st*, Supply to their Estates. 2*ly*, Fear to their Authority. 3*ly*, Honour and Reverence to their Persons. First, Their Estates are to be supported, for as one says, *Pecunia nervus Imperii*, without which the Work of the Magistracy can neither be effected

nor

nor respected; and as it is necessary, so it is convenient, that he that is imployed for the good of the Commonweale be supported by the Publick weale, for as saith *Seneca* cited by Mr. *Stanf.* in his *Prerogat. 5. a. Omnium somnos, illius vigelantia defendit, omnium Otium, illius labor, omnium delicias, illius industria, omnium vocationes, illius defendit Occupatio,* his Watchfulness keeps us in our Rest, his Pains secures our Pleasures, his Calling defends us in all our Callings. Secondly, Fear his Authority, the Apostle gives the reasons, *Rom.* 13.4 *for he beareth not the Sword in vain*; he is the Minister of God, he comes Warranted with Authority, and as he hath Authority so he hath Power too; Might and Right are both in him: he is the fountain of Justice, and the life of the Law, he bears the Sword, and he bears it not for naught, therefore if thou dost Evil fear. Thirdly, Yield Honour and Reverence to their Persons, for though they are Men subject to the same Natural infirmities that we are; yet we must remember whose Person they bear upon them; they are the Deputies of God, And therefore Honoured with his Name, *I have said ye are Gods.* It is said of the *Persians*, that when they come into the presence of their Prince, they draw their Hands into their Sleeves, in token of their Reverence and Loyalty, they will not have a Hand stirring while Majesty is in presence. Now as to the concluding this my present Discourse, I pray not only your Hands be lifted up to Heaven, but your Hearts also, and that all may fervently joyn with me in the conclusive Prayer of our Church Liturgy for the Morning Service every *Sabbath-day*, which is as followeth.

Almighty

ALmighty God, whoſe Kingdom is Everlaſting and Power Infinite, have Mercy upon the whole Church and ſo rule the Heart of thy choſen Servant James *our King and Governour, that he (knowing whoſe Miniſter he is) may above all things ſeek thy Honour and Glory, and that we and all his Subjects (duly conſidering whoſe Authority he hath) may faithfully Serve, Honour and humbly Obey him, in thee, and for thee, according to thy holy Word and Ordinance, through Jeſus Chriſt our Lord, who with thee and the Holy Ghoſt, Liveth and Reigneth one God World without End. Amen.*

FINIS.

ERRATA.

PAge 5. *l.* 23. *for* Petion *r.* Petition. *p.* 18. *l.* 2. *for Priviledges r. Prerogatives. p.* 21. *l.* 21. *for* agrreing *r.* agreeing, *l.* 36. *for* joyned *r.* enjoyed. *p.* 25. *l.* 6. *for datam fit r. datum ſit, l.* 8. *for repreſentons r. repræſentans. p.* 28. *l.* 2. *for Pallainum r. Pallatinum. p.* 29. *l.* 24. *for tiahit. r. trahit. p.* 30. *l.* 1. *after* Sword, *add* in. *p.* 42. *l.* 36. *after* King, *dele* and.